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CANADA

Debates of the Senate

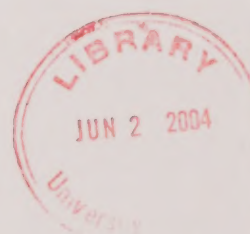
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OFFICIAL REPORT
(HANSARD)

Thursday, April 1, 2004

—
**THE HONOURABLE DAN HAYS
SPEAKER**

This issue contains the latest listing of Senators, Officers of the Senate, the Ministry, and Senators serving on Standing, Special and Joint Committees.



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THE SENATE

Thursday, April 1, 2004

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

TRIBUTES

THE HONOURABLE DOUGLAS ROCHE, O.C.

The Hon. the Speaker: Honourable senators, pursuant to rule 22(10), I have received a request from Senator Austin, the Leader of the Government in the Senate, that time be provided under Senators' Statements for the purpose of paying tribute to the Honourable Senator Douglas Roche, who will be retiring from the Senate on June 14, 2004.

Accordingly, tributes to Senator Roche.

Hon. Jack Austin (Leader of the Government): Honourable senators, to refer to the work of Senator Roche and his focus over these many decades as a career is a misnomer. It could only be accurate if we called his work his vocation. As a journalist, educator, politician and diplomat, Senator Roche has been unremitting in his constructive work to end humankind's destructive impulses, and has promulgated the message that only through a peaceful world can we safeguard future generations and their quality of life.

Although Senator Roche started his political career in 1972 as a Progressive Conservative member of Parliament, he later moved on to politics of a more elevated order when he worked as Canada's ambassador for disarmament to the United Nations and served as chairman of the United Nations Disarmament Committee during his tenure there. On his appointment to this chamber on September 17, 1998, by the Right Honourable Jean Chrétien, Senator Roche clearly did not accept certain sage guidance, which I am sure was proffered, and instead chose to sit as an independent, for the valid reason that he could freely advocate his values and beliefs without the ties of party concerns.

Senator Roche has worked throughout his life to ensure that we here in Canada and people around the world have a future. He is the author of 16 books, and has dedicated two of these to his grandchildren, Nicholas and Isabelle. In his most recent book, *The Human Right to Peace*, Senator Roche declares that

The immediate goal is for every generation to ensure that there will be a following generation. The advance of civilization thus far tells me that humanity is not fated for oblivion; indeed the new interconnected human community is a source of strength to continue building the culture of peace.

Among the numerous awards and honours bestowed upon Senator Roche for his work on development, nuclear disarmament and fighting global poverty, he has received the Order of Canada and was named a Knight Commander of the Order of St. Gregory the Great by Pope John Paul II.

We often say of the best politicians that they understand the positive values of their society and that they also have an ability to communicate with individual citizens and to take their concerns to heart. Senator Roche certainly has these qualities and is a man who carries our highest respect for who he is and what he believes.

• (1340)

He possesses a faith in the potential of his fellow human beings that is a true inspiration to those of us who watch him work on our behalf. More than that, he believes in the goodness of creation, in the beauty of this world and that it is worth protecting.

All of us owe Senator Douglas Roche a debt of gratitude and a debt that will be repaid, I am sure, in his view, if we are collectively successful in building a culture of peace for future generations.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, if one could have sat in the Senate of ancient Rome, one would no doubt have heard the words "*dicamus bona verba*," meaning "let us speak words of good omen." Today, in paying tribute to Senator Doug Roche, I wish to use these very same words to describe his work as he takes his leave of the Senate of Canada.

Our colleague brought to this chamber the experience of a parliamentarian who had been elected on four occasions to the House of Commons. His contributions to domestic and international affairs have been many, particularly in the area of disarmament. Canadians applauded the choice of former Prime Minister Mulroney, who appointed Senator Roche in 1984 as Canada's Ambassador for Disarmament.

Since his appointment to the Senate for Alberta in 1998, Senator Roche has been a thoughtful and assiduous member of this chamber. His experience as a teacher, author, parliamentarian and diplomat has been available to the chamber and committee work. Most recently, his study and guidance on Bill C-6, respecting assisted human reproduction technology, was extremely important. I recall his advice: While passing the bill was troubling to him, not to pass it was more troubling.

Honourable senators will miss his sage counsel because of the age discrimination provision in present legislation affecting membership in this Senate. However, the good news is that given the appeal of the Charter and *non obstante* provisions to so many in the foothills of the Rockies, we hope to see Senator Roche rejoin us one day as an elected senator.

Whatever the future may hold, I fully expect that in my weekly reading of the *Register*, there will be continuing reports of his ongoing work.

In closing, I wish to say to my friend: Continue to be a catalyst of energy, devotion and reform for justice and equality. Maintain the flame of goodwill and the vision of a planetary community in which development and justice are sought together and the world's vast resources set to work for the building of the common good.

In the words of Lady Jackson, Barbara Ward:

If this seems a utopian vision, it must be said that the Christian faith is visionary. It dares to pray "thy kingdom come." It dares to dream of a time when He shall say: "Behold, I make all things new."

Hon. Sharon Carstairs: It is with a great deal of pleasure, honourable senators, that I rise to pay tribute to the Honourable Senator Douglas Roche. I have known Senator Roche by reputation: as a member of the other place, as the founding editor of the *Western Catholic Reporter* and, above all, as a fierce defender of the United Nations, most particularly on the issue of disarmament.

Upon his arrival here, I asked him if he and former Senator Lois Wilson would like to meet with me so that I could give them a briefing on Senate rules, procedures and practices. Liberal senators affectionately refer to this as "Senate school." They agreed, and we spent several hours together. Both were eager to learn all of the rules and, most particularly, how they could be made to work for them. It therefore came as no surprise that, within days, Senator Roche was on his feet with a Notice of Inquiry on the issue of disarmament.

However, it was his dedication to the special study of the Social Affairs Committee that culminated in the report, "Quality End-of-Life Care, The Right of Every Canadian," that forged a lasting bond between us. Under the then rules of the Senate, he could not sit as a member, but that did not prevent him from being an active participant of the committee. He attended every session. His insightful knowledge and understanding of the care of a dying person and the impact on the family gained from his personal knowledge was invaluable.

Senator Roche is a man of principle. He understands the importance of compromise, but never at the sacrifice of principle. He has my respect and my admiration. He will be a great loss to this chamber.

Hon. Lowell Murray: Honourable senators, I well recall the genuine satisfaction and excitement of Progressive Conservative organizers in 1972 reporting that they had been successful in persuading Doug Roche to leave behind an influential and non-partisan career as a respected journalist and author to stand as a candidate for our former party under the leadership of Robert Stanfield in the general election of that year. That satisfaction is equalled by my regret today at seeing him leave this place.

Joe Clark named Doug Roche opposition critic for external affairs, Brian Mulroney appointed him Canada's Ambassador for Disarmament and Jean Chrétien appointed him to the Senate, not because those three leaders shared all his principles or agreed with all of his views, but because they believed it highly important that his principles, his views and his voice be heard and understood in the formulation of national policy.

His policy — global security through disarmament and international development — was hard for many of us to accept unreservedly during the Cold War, and it is not much easier in the unstable circumstances of today, even as we acknowledge that his vision of the world's future is the one we want for ourselves and for humanity. Anyone standing for Doug Roche's principles and advocating his policies has a tough row to hoe.

It is not that he has ever lacked opportunities to speak out. Indeed, he never really needed the platform the Senate gave him, and one wonders with what sentiment he leaves the parliamentary arena. How does he measure progress toward the ideal, distant goal to which he has given most of his life — in centimetres, or should I say inches, since he was a member of a caucus that fought the metric system so ferociously?

For thousands of people here and elsewhere who are determined as he is to struggle against all odds for an alternative to confrontation and conflict and for a different world, Doug Roche is a revered and inspirational leader. I chose the words "revered" and "inspirational" because a man of his careful theology would object to being described as iconic.

The record will show that he has been tough and skilful, persistent and courageous in advancing his cause, unyielding when it came to principle, and always respectful of others and their principles, no matter how strongly he may have disagreed with them.

At the beginning of our daily sittings when the Senate Speaker prays that we may serve the cause of peace and justice in our own land and throughout the world, we are permitted to believe that Doug Roche was sent here to help us do just that, and we may hope that others will defend the cause as well as he has done.

Hon. Mobina S. B. Jaffer: Honourable senators, it is an honour and a pleasure to rise to pay tribute to our colleague Senator Roche. As a teacher, a diplomat and a parliamentarian, he has set a shining example for all of us who work toward the goals of peace and human security.

He has served in a staggering number of roles, not only in Parliament as a member and a senator, but also as Canadian Ambassador for Disarmament, Chair of the United Nations Disarmament Committee and then as adviser on disarmament to the Holy See delegation to the United Nations General Assembly. He has also been Chair of the Canadian United Nations Association. Yet, somehow, with all the work he has been doing, he has found the time to write 16 books on the subjects of nuclear disarmament, peace and human security.

• (1350)

Personally, I can tell you that Senator Roche has been a great inspiration to me, and that his support of my work on the United Nations resolution 1325 through the Canadian Committee on Women, Peace and Security has been appreciated and invaluable.

I knew of Senator Roche before I came to this chamber, as both of us have worked with the Oblate Fathers. Senator Roche, Father Laplante and I collaborated, and we wanted to remind all colleagues here of your favourite prayer, from the Prophet Micah — a prayer you live by — the three things to achieve social justice: The Lord asks you to act justly, to love sincerely, and to walk humbly with God.

Senator Roche certainly lives this prayer daily. He has been our conscience, and his sage advice will be greatly missed.

Hon. Yves Morin: Honourable senators, it is both my privilege and my pleasure to rise today to pay tribute to my friend, Douglas Roche. I would say "Senator Roche," were I not at risk of ignoring all his other titles, which are: former Ambassador for Disarmament; Officer of the Order of Canada; former President of the United Nations Association of Canada; author of 16 books; and Visiting Professor of the University of Alberta. I could go on for some time, exhausting my voice before I would exhaust his accomplishments.

The common element of all that he undertook, including his years in the Senate, is a deep and abiding sense of public service and commitment. Whether the subject is equitable social and economic development, nuclear disarmament, even the reform of this chamber, Senator Roche has proven himself to be thoughtful, sincere, and ever concerned with the well-being of all people in Canada and throughout the world.

I have valued and enjoyed my opportunities over these years to discuss a wide variety of issues with Senator Roche, and I have always found his views to be thought provoking — a catalyst for thinking about issues from many different perspectives.

I wish him the best in his retirement, and I look forward to continuing to have opportunities to discuss these issues with him in the future. He will be missed.

Thank you, Doug.

The Hon. the Speaker: Honourable senators, unfortunately the 15 minutes for tributes have expired. I should like Senator Roche to know that remaining on my list are Senators Hubley, Banks, Prud'homme, Tkachuk, LaPierre and Fairbairn, and we may get to some of these under Senators' Statements, but it is my duty and privilege now to ask him to respond.

Hon. Douglas Roche: Honourable senators, 20 years ago, when I was taking my leave from the House of Commons, I made what I called my final speech in Parliament. This time I really mean it.

I grew up in the Sandy Hill area of Ottawa, only a few blocks from where we are sitting, during the 1930s and 1940s. I never dreamed that one day I would be able to serve Canada as a member of Parliament, an ambassador and then a senator, but that is the kind of country we have — one in which a person of modest means can aspire to work in Canada's parliamentary and diplomatic service.

When still a young man, I went west and found, in Alberta, a new home, one that not only took me in but also sent me back to Ottawa to launch my political career. In Edmonton I found the energy, creativeness and sense of purpose that I was looking for. I am deeply grateful for the opportunity, along with my Alberta colleagues, of whom His Honour is chief, to have represented a great province in the Senate.

I must tell honourable senators, frankly, that in 12 years in the House of Commons and nearly six in the Senate, I have never lost the feeling of honour just to be able to walk onto the floor of these two great institutions.

Now, the clock inexorably moving forward, I depart, but not before expressing my deep appreciation to all my colleagues in the Senate, starting with His Honour, and commending him for, among his many admirable qualities, his excellent eyesight in recognizing figures in this corner of the chamber.

The Senate clerk, Paul Bélisle, and the Table officers, officials of the Senate, the interpreters, Hansard reporters and editors, pages, and all the staff, have extended countless courtesies to me.

It is abundantly clear that I would not have survived in the Ottawa political culture without the extraordinary assistance of Pam Miles-Seguín. I hired Pam some 30 years ago when she was fresh out of school, and she has strengthened my professional life ever since. I have lost count of the many administrative and logistical problems she has solved for my family and me.

Honourable senators, if you want someone who can organize your life for you, and who can do half a dozen things all at the same time and keep smiling in the process, run, do not walk, to seek out Pam.

I am also grateful to Bonnie Payne, my assistant in Edmonton, who has been with me for 15 years, and to all my research assistants, including Steve Grunau, Todd Martin and Chris Hynes.

There is no way to adequately thank my wife, Patricia McGoey, and my children, Evita, Douglas Francis, Mary Anne and Patricia. Their love and support have strengthened me immeasurably.

Honourable senators, when I made that final speech in the House of Commons 20 years ago, I talked about disarmament and development as the two indispensable requirements for peace and global security. These themes, along with the guaranteeing of human rights and the protection of the environment, are with us still today.

However, despite the wars of our time, which inflict such terrible suffering on so many, the world is moving forward. The elements of a culture of peace — respect for all life, rejection of violence and a desire for social justice — are coming into much sharper focus.

Of course, much work remains to be done — an agenda that I commend to you. I personally, as long as God gives me the strength, will never rest until nuclear weapons, the ultimate evil of our time, are abolished.

I close with the optimistic words of Isaiah: "Peace, peace to the far and near, says the Lord; and I will heal them."

Honourable senators, thank you for the opportunity of being with you. I wish you well. Bonne chance. God bless you all — and God bless Canada!

Hon. Senators: Hear, hear!

• (1400)

THE HONOURABLE BRENDA M. ROBERTSON

The Hon. the Speaker: Honourable senators, further to the house order of March 23, 2004, to the effect we would hear tributes for Senator Robertson today, in addition to Senator Roche, and pursuant to rule 22(10) and a letter that I have received from the Leader of the Opposition in the Senate requesting additional time under Senators' Statements, we now pay tribute to the Honourable Senator Brenda Robertson, who will be retiring on May 23, 2004.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, Brenda Robertson came to the Senate just shy of 20 years ago, bringing here with her a unique public experience, in particular in the field of health, which has been of great value to all of us in this chamber.

In 1967, she became the first woman ever to be elected to the New Brunswick legislature and was subsequently re-elected four times. She held a number of cabinet positions, including Minister of Health, and it was in that role that she initiated the Extra-Mural Program in 1981, the first government-insured home care program to be incorporated under the Canada Health Act. In a brief to the Kirby-LeBreton committee on the state of the health care system in Canada, the purpose of the Extra-Mural Program was described as being "to provide a comprehensive range of coordinated health care services for individuals of all ages for the purpose of promoting, maintaining and/or restoring health within the context of their daily lives." Her initiative has been used as a model in many other jurisdictions around the world.

Senate reports generally receive a wide and appreciative audience, owing to the commitment and knowledge of its members who are unafraid to study controversial matters, and Brenda has contributed to the kind of expertise that helps make such reports so valuable.

Her years in the Senate were most productive, and just listing her many accomplishments would exhaust my time, so I will limit myself to one that affects us all individually and collectively.

Following the chaos of the GST debate, it was clear that the Senate, to avoid a similar incident, needed better rules to guide this place, rules which, until then, had not been found necessary. Our rules, those under which we presently operate, resulted from efforts by the Standing Committee on Privileges, Standing Rules and Orders, as it was then called, under her chairmanship. Our colleagues now on the government side were not at all pleased by this turn of events at the time and actually boycotted the committee studying the rules, but the fact that they have been resorting frequently to them over the years, particularly the one related to time allocation, shows that certainly there has been quite a change of mind on that side since.

New Brunswickers have never forgotten Brenda. They still turn to her for help and direction in provincial matters, and she never fails them.

She promoted for years Maritime union, and I have no doubt that she will now have more time to devote to this issue.

She has been an incredibly loyal caucus colleague, accepting every responsibility without complaint and always fulfilling her commitments with great success.

Thank you, Brenda. As you turn the page on this chapter of a long and distinguished public career, I want you to know that it has been a joy and a privilege to be associated with you. May New Brunswick and Canada continue to benefit from your talents for many years to come.

[Translation]

Hon. Rose-Marie Losier-Cool: Honourable senators, I join with you today in paying tribute to a colleague in the Senate, a fellow New Brunswicker, and a sister in politics, the Honourable Brenda Robertson.

[English]

As you already know, and Senator Lynch-Staunton mentioned, Senator Robertson was the first woman elected to the New Brunswick legislature in 1967. She became the first woman member of the New Brunswick cabinet in 1970, and she held five portfolios before she was appointed to the Senate of Canada in 1984. I believe that she is the longest still-serving politician from our beautiful province of New Brunswick.

Many senators have witnessed her dedication to social issues since her arrival in our chamber. Her tireless work on the Standing Senate Committee on Social Affairs, Science and Technology is proof of her longstanding dedication to the plight of the unemployed, the needs of underprivileged children and the challenges of the health care sector.

[Translation]

Senator Robertson's career has been studded with firsts that are dear to my heart, as a woman and as a New Brunswicker. It is because of her formidable work as a pioneer well before her arrival in the Senate, and continuing during her years with us, that I again express my great respect for her.

I even believe it was her example that encouraged me to seek and obtain the presidency of the Association des enseignantes et enseignants francophones du Nouveau-Brunswick in 1983. At that time, Senator Robertson was the provincial minister responsible for reforming social programs. I remember that was when our respective responsibilities brought us into contact. I hope that her memories of that time are as good as mine.

My biggest regret, all these years, is that my colleague has always preferred blue. But taste is dictated by nature and tolerance is a characteristic of the New Brunswick woman, and so I respect her choice.

My other regret is that I was unable to buy the magnificent house that Senator Robertson used to have on the coast at Shediac. Thus, I had to become a citizen of Moncton.

[English]

You win some and you lose some, I guess.

May the next decade be as challenging and stimulating to you as the past, dear senator. I thank you for having been such a beacon, and I shall miss not seeing you around this chamber. Goodbye.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, the contributions to public affairs made by our colleague and friend Senator Brenda Robertson have been of such quality and quantity that the limitation of time impedes our ability to do justice to the tribute that ought to be made in her regard at this time. However, I will attempt it. I would want to frame a few thoughts by words such as "admiration," "amity," and "affection" and underscore her legacy of good work for the people of our province of New Brunswick and the people of Canada.

Not only is she the most outstanding Minister of Health that our province has known, but she has been an exceptional member of the Senate of Canada. It is noteworthy and true, as has been mentioned, that she was the first woman elected to the Legislative Assembly of New Brunswick in 1967 and re-elected in four subsequent provincial elections. Her work in the legislature was first-class, and it is the quality of this work that explains her repeated re-election and the esteem and admiration of the people of New Brunswick for her.

Clearly, this senator is a role model — a role model, yes, for women to participate in public affairs, but also a role model for all who wish to excel in service to society.

Senator Robertson has one of the best political minds in the country, and I have learned so many things from her over the years, including the lesson of how much politics operates in the medical community. I know that Dr. Keon and Dr. Morin can well appreciate how much I would have learned about such medical politics when I was asked by then Minister of Health Brenda Robertson to conduct a public inquiry into the granting of hospital privileges.

Honourable senators, the 1981 first ministers' constitutional meeting was another occasion where our colleague greatly influenced New Brunswick's and Canada's future. Senator Robertson was part of our New Brunswick team that supported the Charter of Rights and Freedoms. Indeed, we were together with the premiers and Prime Minister Trudeau in the small room down the street when the former Prime Minister secured from Premier Lévesque the agreement that dissolved the gang of eight.

• (1410)

Honourable senators, there are three major bodies of water that are near Senator Robertson's home in New Brunswick. As mentioned by Senator Losier-Cool, there is the Northumberland Strait of the Gulf of St. Lawrence, but there is also the Bay of Fundy and the Petitcodiac River. These three bodies serve as a suitable metaphor to partially describe Brenda Mary, as she is affectionately known by her close friends. The warm summer waters of the Strait and its powerful ice floes of winter speak to her fortitude and care in the area of social policy. The high tides of Fundy speak to the high levels of achievement and excellence that she sought for all our people. Her enthusiasm and vigour for acting, not only in some distant future on issues but also in the here and now, is symbolized by that remarkable rush of the tidal bore of the Petitcodiac River in her beloved Moncton.

It was Senator Robertson who walked me into this place in 1990. While she might be walking out by herself, because of the legal requirement, she will remain always for me, and indeed for us, an important guide.

Hon. Senators: Hear, hear!

Hon. Michael Kirby: Honourable senators, I rise to pay tribute to Senator Robertson, in part on behalf of all the members of the Standing Senate Committee on Social Affairs, Science and Technology, because of the enormous contributions she made to our health care study, but not inconsiderably on behalf of myself personally, because of the length of time I have known her and our many discussions about health care and politics over the years.

I first met Senator Robertson at an early meeting of the Council of Maritime Premiers, in 1971, when she was a minister in the New Brunswick government and I was Chief of Staff to the Premier of Nova Scotia. We were just getting the Council of Maritime Premiers started.

Our paths crossed on a number of occasions in the ensuing years, but we again got together when she joined the Standing Senate Committee on Social Affairs, Science and Technology at the beginning of our health care study. When she was Minister of

[Senator Losier-Cool]

Health in New Brunswick, Senator Robertson put forward a lot of ideas. As an aside, the first two female provincial ministers of health in the country, Senator Callbeck and Senator Robertson, both serve on the Social Affairs Committee. That is an interesting reflection in terms of the pragmatic solution to many of our problems.

Senator Robertson actually went way beyond the normal call of duty. As honourable senators know, one of the central issues in the health care debate in this country is the issue of waiting lists. While the committee was doing its health care study, Senator Robertson needed a hip replacement. It was useful to have people on the committee who had practical experience in health care. She carefully arranged it so that her scheduled hip replacement operation was delayed three times, so that when the committee put out its report we would be able to say, in all seriousness, that members of our committee clearly had firsthand experience of the difficulty of being on waiting lists for major operations. We appreciate the fact that you went well beyond the call of duty in doing that, Senator Robertson.

It is also true — and Senator Lynch-Staunton mentioned this in his remarks — that one of the ideas that originated with Senator Robertson when she was Minister of Health in New Brunswick was the idea of an extramural hospital. That idea manifested itself again in the Senate committee's report as the foundation of our post-acute home care program, although the motivation was somewhat different. Many of you from the East Coast will understand the enormous creativity those of us in Maritime politics have with conducting a raid on the federal treasury. In the days when the extramural hospital program was developed in New Brunswick, it was not only the right health care policy but also a policy that was developed at a time when the federal government paid 50 per cent of all hospital expenses. Therefore, the simple solution to getting home care paid 50 per cent by the federal government was to define an individual's home to be an extramural hospital.

That was, in fact, one of the wonderful financial benefits for which the federal government never did find a solution. Clearly, it was so creative that I think the federal government decided they had to fund it just because the creativity alone made it worthwhile. The fact of the matter, honourable senators, is that we adopted Senator Robertson's idea in our post-acute home care proposal. Interestingly enough, a year and a half after our report came out, two other provinces are now in the process of adopting that proposal. It is an enormous tribute to Senator Robertson's 25 years in the health care sector — 30 years in total — that an idea that began 25 years ago in New Brunswick ends up, at end of Senator Robertson's career, in a federal report that is now being implemented across the country.

So, Senator Robertson, on behalf of all members of the committee and myself, in particular, I want to thank you very much for your enormous contribution.

Hon. Terry Stratton: Honourable senators, I did not know Senator Robertson when I came into this chamber, except to look at her on the front row and view her as nothing but regal splendour. We were quite intimidated by her mere presence in the beginning.

I then got to know her, fortunately, as she really was and is — that is, as a true hard-working member of the committees with which I have worked as well, in particular the Internal Economy Committee and the Rules Committee. Those two committees are not well-known outside this place; however, the issues before those committees require much discipline from committee members. I discovered her strength of character in serving with her on those committees, as well as her advice and wisdom, which I appreciated and continue to appreciate. The one thing I did learn, both in leadership races and in serving with her on those committees, is that this lady does not change her mind; she sticks to her word.

I wish nothing but the best for you in the future, senator, and the best of health. I know you will think of us once in a while, as you sit down in the evening with a certain glass. I know full well that you will turn this page and move on to something new immediately after leaving here. To that new life, all the best, and thank you for your help.

The Hon. the Speaker: Honourable senators, I regret to advise that the 15 minutes for tributes to Senator Robertson have expired, which means that it is now my duty, and again my privilege, to call on Senator Robertson.

I might say I leave on the list, Senator Robertson, Senators Carstairs, Tkachuk, Murray, Bacon, Cools, St. Germain and Day. We may get to some of them in Senators' Statements, but I will figure out how to do that later.

I will now call on Senator Robertson.

Hon. Senators: Hear, hear!

Hon. Brenda M. Robertson: Honourable senators, thank you very much for that. I should go out and come in again. It might extend the time a bit. That was very pleasant.

Honourable senators, on May 23, as some of you know, I shall become a private citizen. Although I shall miss this magnificent chamber and my friends here, life moves on. Thank you for the very many nice things you have said about me. I am truly grateful for the opportunities that I have had for public service and believe that, as I leave public life, it is important to continue to work for the strengthening of our communities, our provinces and our country.

Before coming to the Senate in 1984, like many Canadians, I took our country a bit for granted — its prosperity, democracy, freedom and security. Now, 20 years later, I have learned that we should take nothing for granted. Our country is extraordinarily complicated and our world is dangerously unstable.

It will be for others in this chamber, and for new senators, to comprehend the complexity of their times and to guard against the forces that endanger the kind of country that all Canadians want to live in.

• (1420)

How quickly time flies. I read in my local paper the other day that I am the longest-serving active politician in New Brunswick. I was not aware of that, but it certainly gives one reason to pause. It has been a great ride — more than 19 years here and, before that, over 17 years serving the people of New Brunswick as a member in our provincial legislature. There is so much more to do; that is the problem.

I am not sure if the intent of the Senate's mandatory retirement age provision was a scientifically based determination that most of us are a spent force by the time we reach 75. Obviously, the drafters of that rule did not anticipate the increase of life expectancy in contemporary society for nowadays, most of us — Doug Roche included — are just getting warmed up at this age. However, as we know, rules are rules in this place and so we must carry on.

Many honourable senators know that I have always been a proponent of Senate reform, including moving to an elected body, but certainly not a mirror image of the other place. Well, maybe it will happen. Certainly the new leader of the Conservative government in waiting has spoken clearly on this subject. Lately, there has been speculation about whether the current Prime Minister may be favourably inclined in this regard. However, to change the Senate without changing the entire system, I believe, would be an exercise in futility. I personally feel that some form of proportional representation should be examined carefully. Certainly the Prime Minister should be elected by the country and not by an individual constituency. I know that many agree that reforms are long overdue.

My friends, Canadians deserve an upper chamber that is more reflective of the country and of our contemporary values. I do believe that we in this place have demonstrated, particularly through excellent committee work, the contribution and the value added to our national parliamentary process the Senate was intended to provide. I hope to live to see the day when all Canadians will look to the Senate for leadership and at the institution with the respect that should be accorded a legislative body chosen by the people, not appointed by a Prime Minister.

Notwithstanding my beliefs and hopes in what the future may hold for the Senate, I must say that it has been an honour and a privilege to serve my country and the people of New Brunswick in this chamber. It has been a responsibility that I have taken always most seriously. It is a part of my life that I will always look back on with pride. I want to pay tribute to my colleagues in this chamber, past and present. Regardless of our abilities or political beliefs, we come here with a common purpose — the service of our country. There can be few nobler callings than public service.

Let me express my appreciation for the people who really make this institution work — cleaning staff who maintain the chamber and the offices of the Senate, bus drivers, protective services, pages, researchers, library staff, clerks and their staff and, of course, the administration of the Senate and our own support

staff. I do not know how I would have gotten by in the last 10 years without Ross McKean. He has kept me all the more organized. Those senators who know me well know I am not very organized. I am usually juggling about six things at one time. Ross has had to put up with that, but he has done it in a great way. I want to thank all of you for making my job and our jobs so much more pleasant because of your courtesy and your unassuming professionalism.

For 37 years, it has been my honour to represent, to serve, to work with the people of New Brunswick. There will be another time very shortly, in May, to speak to this in more detail down home. Suffice it to say I would not be here today had I not earned the trust and the privilege to represent the people of Riverview. I must say, too, that in four of the last five elections, I took their deposit. That was not mentioned.

In 1967, as a rookie MLA, I came to the provincial legislature in Fredericton to sit in opposition. I started in opposition; I leave in opposition. I sat there for three years to discover that there were no female washrooms in the members lobby. The press were more interested in what one wore than what one said. Many believed that men could not serve with a female minister leading a department. It was quite interesting, really; many challenges but great fun in the long haul. Through three and one-half terms serving in government alongside a great leader, my friend Richard Hatfield, and so many superb colleagues, I have been fortunate and grateful to have the chance to work for New Brunswickers. Of course, I shall always be grateful to Brian Mulroney for having had the trust in me to serve my province and my country in this institution.

Finally, I should like to acknowledge the support of my family and some of my friends. My family is up there in the gallery, including two of my children. The third could not make it. I could not have succeeded without them. For all these years in public life, they gave me unwavering support. The trust and advice of my family and friends kept me on the straight and narrow so many times. We have shared lots of laughs and a few tears along the way, but as I said at the start, it has been a great ride. I cannot imagine having taken it without my family and friends.

As we get older, how time flies. You just get up in the morning and you have to go to bed. As someone once said, "Hello, I must be going."

The book is far from finished, honourable senators and friends. I am simply turning another page. I wish you all well in the years ahead.

Hon. Senators: Hear, hear!

The Hon. the Speaker: Honourable senators, before going to Senators' Statements, I would indicate that I intend to call on three senators who had wished to speak on Senator Roche's retirement in the order of Senators Hubley, Prud'homme and Banks, followed by three who were left on the list for Senator Robertson's tributes, namely Senators Carstairs, Tkachuk and Murray.

THE HONOURABLE DOUGLAS ROCHE, O.C.

TRIBUTES ON RETIREMENT

Hon. Elizabeth Hubley: Honourable senators, it gives me great pleasure to rise in tribute to the distinguished gentleman who sits just across the aisle. Senator Roche is greatly admired and respected throughout the world for his work on nuclear disarmament and arms control. In my own relatively brief time here, I have been impressed not only by his knowledge and expertise but also by his great humanity and the unfailing courage he has shown in grappling with the global issues of war and peace.

The international arms community is a shadowy place, honourable senators, where borders and national loyalties often are ignored and where laws are undermined and skirted around. As Western democracies, we have pursued peace and disarmament on the one hand, while at the same time allowing our arms manufacturers and contractors to continue arming the world, particularly the developing countries.

Let me give honourable senators one very real and disillusioning example. A little more than a year ago, as the United States began its international campaign to convince the rest of the world that the evil dictator of Baghdad should be removed and just prior to the return of UN arms inspectors to Iraq, neighbouring Jordan hosted another kind of international event. Arms manufacturers and suppliers from around the world and their prospective customers gathered in Amman to exhibit the latest in weaponry, from guns to land mines, from battlefield tanks to fighter aircraft, from missiles to sophisticated tracking systems. The Special Operations Forces Exhibition, or SOFEX, is held every two years. The British firm Vickers was there exhibiting the Challenger tank, recently offered to Jordan, as was the American weapons giant Lockheed Martin, which manufactures the Longbow "fire and forget" missile and the Hellfire II antitank missile, as well as the F-16 fighter jet.

Other American firms participating in the arms fair include Raytheon, the world's largest manufacturer and supplier of the Tomahawk cruise missile, the same kind that had rained down on Afghanistan earlier that year and the same missile that would be used once again when the coalition forces invaded Iraq for a second time.

• (1430)

Many of the potential customers of SOFEX need little introduction. Two of the three rogue states comprising President Bush's axis of evil were there, Iraq and Iran, as well as Syria, Libya and the Sudan, all of them viewed at the time as sponsors of terrorism by the United States State Department.

Honourable senators, there is something almost unbelievable about this. We are reminded that there is a lot of work to do if we are to realize a world in which peace, non-aggression and civility prevail over violence, arms proliferation and war.

Senator Roche knows better than most the challenges we confront. I should like to thank him for his remarkable contribution to the work of this chamber.

[Translation]

Hon. Marcel Prud'homme: Honourable senators, I will certainly not add to the many eloquent things already mentioned about my colleague and friend Senator Roche.

I have known him as the most passionate member of the External Affairs and National Defence Committee, which I had the pleasure of chairing in the House of Commons for nearly ten years.

Senator Roche had always believed that the external affairs and national defence committees should be combined. Why? Because those specializing strictly in national defence matters are often unaware of international problems, which are of somewhat greater interest to those responsible for external affairs, and vice versa. The experts at Foreign Affairs and CIDA are often unaware that, unfortunately, there are some horrible people in this world and consequently we need a Department of National Defence. Senator Roche and the other committee members succeeded in raising the awareness of both sides in the External Affairs and National Defence Committee.

I want to thank Senator Roche for the role he played back then in raising the awareness of his colleagues on this committee. His strong convictions never wavered. He will continue — we are certain — to devote himself to those who believed in him.

As I did not get the opportunity to do so earlier, I want to take this opportunity to pay tribute to Senator Robinson and to Senator Beaudoin, who has always been a wonderful friend.

[English]

More than 15 appointments will be possible, and one of my wishes is that the next Prime Minister, whoever he will be, will at long last show the way, because he will have the option of achieving one house that has total equality by appointing women until we reach a complement of 53 or 52. Within less than a year and a half, we can achieve that great goal. I thank you very much.

Hon. Tommy Banks: Honourable senators, I hope you will permit me to address my remarks to Senator Roche. I claim that privilege for two reasons: first, because it is he who first marched me into this place, along with Senator Taylor, another victim of age discrimination; and, second — this is the only sense in which I have the advantage over all honourable senators, I believe — I have had the privilege and honour of knowing Doug Roche since 1970 when he was the editor of the *Western Catholic Reporter*. I think that trumps about everyone.

Not wanting to add to the long list, which is still not fully exhausted of your many accomplishments, Doug, I want to point out that when the leader complimented you by saying that you sit here as an independent so as not to be constrained by party discipline, I know that Senator Murray would gleefully regale us with tales of the fact that you were never constrained by party discipline in matters of principle.

Certainly, since I have been here, you have, in more senses than one, been the conscience of this place in many respects. I have no idea how that will be replaced or how that will be succeeded, but when the next Prime Minister, whoever that might be, succeeds in filling up the Alberta quotient of senators again, he may succeed you, but he will not replace you.

THE HONOURABLE BRENDA M. ROBERTSON

TRIBUTES ON RETIREMENT

Hon. Sharon Carstairs: Honourable senators, others have commented on Senator Robertson's remarkable contributions to New Brunswick, both in her service in the legislative assembly and here in the Senate. I will spend the limited time available to me to comment on her quiet and effective championship of disability issues here in the Senate.

As a result of her intervention, this chamber and the Senate as a whole has become more sensitive to the needs of the less able in our community. For example, the Senate has led the parliamentary world in having the first committee report made available in ASL and LSQ sign language for the hearing impaired. The gallery has been adapted to make it more accessible to the handicapped. There is a working committee to identify the special committee needs of Senate employees and to ensure that special equipment needs are met. I am sure that many of you are not aware of these special initiatives. That is typical of Senator Robertson. She goes about her business in a quiet, effective way and, as a result, we will all suffer a loss when she retires.

She has my gratitude, and I wish her Godspeed.

Hon. David Tkachuk: Honourable senators, I wish to pay tribute to Senator Robertson. Brenda, you and I have always wondered, when the government members so graciously clap for us, whether it is for our departure or for the anticipated appointment.

Coincidentally, May 23 is not only the day Senator Robertson retires from the Senate but also, I believe, it was 75 years ago on that day that she arrived in this world. I do not think that Senator Robertson will be retiring from the Senate, because the lady I have known, the senator from New Brunswick, is unlikely to be retiring, given all that she does. She is simply leaving Ottawa.

I did not know Brenda Robertson from New Brunswick, that courageous first female elected member in the New Brunswick legislature and the first female cabinet minister in the New Brunswick legislature. I only knew Senator Brenda in the Senate. That can be rather overwhelming. Those of us who have shared caucus discussions in the Senate know exactly what I am talking about.

We have shared a great deal of politics, a bit of strategy, intrigue and plain old political plotting, and it has all been fun but, in that, you have shown me what a bright political mind you have.

I have the highest respect for Brenda, who has been a wonderful colleague, an honourable senator, and someone whom I consider to be a friend.

Brenda has shown us what resilience she has after overcoming physical challenges from two hip surgeries, suffering the personal loss of her husband and best friend, Wilmont, to rallying and giving us and Canadians all of her heart, until the very moment of retirement.

Brenda was one of the first, if not the first, Atlantic members of caucus to see the importance of a political merger between the two Conservative parties — and she did lots of work to achieve that — and the importance of re-orienting our focus on what really needs to be our target of attack.

Brenda, I know your family will be glad to have you back in New Brunswick, and I hope they know how much we will miss you here. To your family, thank you for sharing such an important, valuable and irreplaceable Canadian with us. To you, Brenda, good luck and God bless.

• (1440)

Hon. Lowell Murray: Honourable senators, we sometimes hear politicians saying, "If only we could get all of the voters in one place, the better to explain to them the benefits of our policy." On one celebrated occasion in the mid-1970s, I thought Brenda had just about accomplished that, when I believe I saw most of the voters of New Brunswick massed outside the legislative building in Fredericton to protest her policies when she was Minister of Social Services there.

We all know politicians and cabinet ministers who cut and run, or run and hide, the minute their policies or programs come under attack. Brenda Robertson was never of that kind. As Minister of Social Services, and later as Minister of Health, she was responsible for controversial policy and program changes, and for difficult decisions. What I always admired about her is that she stood her ground, explained and defended her position and, when she could not persuade her critics, won at least their respect and understanding.

As it has turned out, many of the changes she introduced in both the welfare and health portfolios, changes that were worrisome to people because they were new, have stood the test of time and have served New Brunswickers well.

The same may be said, as Senator Lynch-Staunton indicated, for the comprehensive overhaul of the *Rules of the Senate of Canada* that she brought in as chairman of the Rules Committee. This was not, to put it mildly, an assignment she sought, but as soon as the government obtained a majority in this place we prevailed on her to accept the challenge, which she did with characteristic courage and determination. When she presented the new set of rules, the then leader of the Liberal opposition, Senator MacEachen, compared her and us unfavourably to the totalitarian regime then in power in the Kremlin. As with so many other initiatives of our government, such as free trade, NAFTA, the GST, the Liberals embraced the Robertson rules fully and shamelessly once in office.

How shall we remember Brenda? We will think of her every time the Liberals bring in closure, or deny the adjournment of a debate, or bring us back on a Friday morning. This is another way of saying that we will never forget you, Brenda.

BUSINESS OF THE SENATE

Hon. Rose-Marie Losier-Cool: Honourable senators, pursuant to rule 22(7), I would request that time be extended under Senators' Statements for the purposes of hearing Senator Moore on a statement.

The Hon. the Speaker: The rules provide that the whip of either party may approach the Speaker and make such a request — and the request is for an additional three minutes.

Please proceed, Senator Moore.

CURLING

NOVA SCOTIA— CONGRATULATIONS TO WINNING TEAMS

Hon. Wilfred P. Moore: Honourable senators, I rise with great pride today to inform this chamber of the recent achievements by Canada's curlers on the national and international levels. It truly has been a month of success, not only for the country but for the province of Nova Scotia, as all these tournaments have involved rinks representing my home province.

On February 29, in Red Deer, Alberta, the defending Canadian champions representing the Mayflower Curling Club of Halifax defeated a younger but very talented Quebec rink 7-4, in a very close match at the Scott Tournament of Hearts. The Canadian champions — skip Colleen Jones, third Kim Kelly, second Mary-Anne Arsenault and lead Nancy Delahunt — have won four straight times and a phenomenal fifth championship in six years, both national records.

These dedicated women have learned how to win. They do not rest on their laurels but continue to push themselves to that championship level of their game. The Jones rink is an inspirational role model for all athletes, female and male alike. The Canadian champions will compete in the World Women's Curling Championship in Gavle, Sweden, from April 17 to 25.

On March 14, at the Nokia Brier in Saskatoon, Saskatchewan, another Nova Scotia rink, again from the Mayflower Curling Club of Halifax, bested the defending Canadian champion, Randy Ferbey of Alberta, in a come-from-behind 10-9 victory. The Nova Scotia rink consisted of skip Kevin Dacey, third Bruce Lohnes, second Rob Harris, lead Andrew Gibson and fifth Matt Harris. These men managed to keep up with the Joneses, and they will represent Canada at the World Men's Curling Championship in Gavle.

Finally, over this past week, the Women's World Junior Curling Championship took place in Trois-Rivières, Quebec. As I mentioned in a past statement, the Canadian champions hail from Chedabucto Curling Club in Boylston, Nova Scotia, and did the country proud. Skipped by Jill Mouzar, third Paige Mattie, second Blisse Comstock and lead Chloe Comstock, their record was 10 wins and one loss throughout the tournament. Their only loss was in the final game to Norway by a score of 9-6. That result earned a silver medal for Canada, something of which our junior women champions can be very proud.

I am most pleased today to offer these three tremendous rinks from Nova Scotia this chamber's appreciation for their excellent efforts, and to wish the Jones and Dacey rinks good luck at the World's next month.

Hon. Senators: Hear, hear!

ROUTINE PROCEEDINGS

THE NATIONAL SECURITY COMMITTEE FOR PARLIAMENTARIANS: A CONSULTATION PAPER TO HELP INFORM THE CREATION OF A COMMITTEE OF PARLIAMENTARIANS TO REVIEW NATIONAL SECURITY

DOCUMENT TABLED

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour to table a document entitled, "The National Security Committee for Parliamentarians: A Consultation Paper to Help Inform the Creation of a Committee of Parliamentarians to Review National Security."

[Translation]

STUDY ON QUOTA ALLOCATIONS AND BENEFITS TO NUNAVUT AND NUNAVIK FISHERMEN

REPORT OF FISHERIES AND OCEANS COMMITTEE TABLED

Hon. Gerald J. Comeau: Honourable senators, this being April 1, April Fool's Day, I have the honour to table the fourth report of the Standing Senate Committee on Fisheries and Oceans.

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Comeau, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

PUBLIC SAFETY BILL 2002

REPORT OF COMMITTEE

Hon. Joan Fraser, Chair of the Standing Senate Committee on Transport and Communications, presented the following report:

Thursday, April 1, 2004

The Standing Senate Committee on Transport and Communications has the honour to present its

THIRD REPORT

Your Committee, to which was referred Bill C-7, to amend certain Acts of Canada, and to enact measures for implementing the Biological and Toxin Weapons Convention, in order to enhance public safety, has, in obedience to the Order of Reference of Thursday, March 11, 2004, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

JOAN FRASER
Chair

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Day, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

[English]

STUDY ON MEDIA INDUSTRIES

INTERIM REPORT OF TRANSPORT AND COMMUNICATIONS COMMITTEE TABLED

Hon. Joan Fraser: Honourable senators, I have the honour to table the fourth report of the Standing Senate Committee on Transport and Communications, entitled "Interim Report on the Canadian News Media."

On motion of Senator Fraser, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

CRIMINAL CODE

BILL TO AMEND—REPORT OF COMMITTEE

Hon. George J. Furey, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, April 1, 2004

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

SIXTH REPORT

Your Committee, to which was referred Bill C-14, to amend the Criminal Code and other Acts, has, in obedience to the Order of Reference of Wednesday, February 25, 2004,

examined the said Bill and now reports the same without amendment.

Respectfully submitted,

GEORGE FUREY
Chair

The Hon. the Speaker: When shall this bill be read the third time?

On motion of Senator Rompkey, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

• (1450)

ADJOURNMENT

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Tuesday, April 20, 2004, at 2:00 p.m.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

[Translation]

CANADA ELECTIONS ACT
INCOME TAX ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-3, to amend the Canada Elections Act and the Income Tax Act

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Rompkey, bill placed on the Orders of the Day for second reading two sitting days hence.

CANADA-JAPAN INTERPARLIAMENTARY GROUP

INAUGURAL GENERAL MEETING OF
INTER-PARLIAMENTARIANS FOR SOCIAL SERVICE,
AUGUST 28-31, 2003—REPORT TABLED

Hon. Marie-P. Poulin: Honourable senators, I have the honour to table the report of the Canada-Japan Interparliamentary Group on the inaugural general meeting of Inter-Parliamentarians for Social Service, held in Seoul, Korea, from August 28 to 31, 2003.

CO-CHAIRS' ANNUAL VISIT TO JAPAN,
MARCH 1-6, 2004—REPORT TABLED

Hon. Marie-P. Poulin: Honourable senators, I have the honour to table the report of the Canada-Japan Interparliamentary Group on the Co-Chairs' annual visit to Japan, held in Tokyo from March 1 to 6, 2004.

TWELFTH ANNUAL MEETING OF ASIA-PACIFIC
PARLIAMENTARY FORUM, JANUARY 12-14, 2004—
REPORT TABLED

Hon. Marie-P. Poulin: Honourable senators, I have the honour to table the report of the Canada-Japan Interparliamentary Group/Canada-China Legislative Association on the Twelfth Annual Meeting of the Asia Pacific Parliamentary Forum held in Beijing from January 12 to 14, 2004.

LEGAL AND CONSTITUTIONAL AFFAIRS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE
TO STUDY BILINGUAL STATUS OF CITY OF OTTAWA

Hon. Jean-Robert Gauthier: Honourable senators, I give notice that on Tuesday, April 20, 2004, I will move:

That the petitions calling on the Senate to declare the City of Ottawa, Canada's capital, a bilingual city, be sent to the Standing Senate Committee on Legal and Constitutional Affairs for consideration;

That the Committee consider the merits of amending section 16 of the Constitution Act, 1867; and

That the Committee report to the Senate no later than October 21, 2004.

[English]

OFFICIAL LANGUAGES

BILINGUAL STATUS OF CITY OF OTTAWA—
PRESENTATION OF PETITION

Hon. Nick G. Sibbeston: Honourable senators, I come from a part of Canada where there are many official languages, many of them Aboriginal languages. I am very pleased today, pursuant to rule 4(h), to table petitions signed by 35 people asking that Ottawa, the capital of Canada, be declared a bilingual city and the reflection of the country's bilingual duality.

The petitioners pray and request that Parliament consider the following:

That the Canadian Constitution provides that French and English are the two official languages of our country and have equality of status and equal rights and privileges as to their use in all institutions of the government of Canada;

That section 16 of the *Constitution Act, 1867* designates the city of Ottawa as the seat of the government of Canada;

That citizens have the right in the national capital to have access to the services provided by all institutions of the government of Canada in the official language of their choice, namely English or French;

That Ottawa, the capital of Canada, has a duty to reflect the linguistic duality at the heart of our collective identity and characteristic of the very nature of our country.

Therefore, your petitioners ask Parliament to confirm in the Constitution of Canada that Ottawa, the capital of Canada, is officially bilingual, pursuant to section 16 of the *Constitution Act*, from 1867 to 1982.

QUESTION PERIOD

FOREIGN AFFAIRS

APPOINTMENT OF MR. BHUPINDER LIDDAR AS
CONSUL GENERAL TO CHANDIGARH, INDIA

Hon. Gerald J. Comeau: Honourable senators, my question is to the Leader of the Government in the Senate. Would the leader provide an update on the status of Bhupinder Liddar's appointment as Canadian Consul General to Chandigarh? Is he going or not?

Hon. Jack Austin (Leader of the Government): Honourable senators, I have nothing further to advise.

Senator Comeau: This is getting to be quite a disturbing characteristic of this government. We have seen similar actions in the past regarding Brian Mulroney. We have seen the situation regarding François Beaudoin. I will not name all the others. Would the Leader of the Government in the Senate agree that it is high time that the reputations of fine Canadians be protected and not soiled by their own government?

Senator Austin: Honourable senators, I absolutely agree that the reputations of Canadians should never be soiled by their government without cause. In this case there is no information to indicate the reason for the delay in effecting the appointment, but certainly no intention, either, of affecting the reputation of Mr. Liddar.

Senator Comeau: The Leader of the Government has just now said it again. There would be no reason to do such things without cause. Do it or get off the pot. What is the cause? Please tell us so that Canadians do not have to worry about this kind of limbo being created for a long period of time. In the case of Brian Mulroney, it was years. He finally had his day in court and won. Is that what Mr. Liddar will have to go through to restore his reputation? There is now a cloud over his head.

• (1500)

Senator Austin: Unfortunately, honourable senators, due process is time consuming. It is, however, absolutely required to achieve a balanced judgment on whatever is being judged. Patience is always urged in these cases, and for a very good reason.

Hon. Gerry St. Germain: Honourable senators, I have a supplementary question for the Leader of the Government in the Senate. I believe him when he says that he would not partake in such activities, but we know this has happened. It is an abuse of power. Can the minister tell Canadians what the present government is doing to prevent a recurrence of this episode, which has involved witch hunts and personal attacks?

Senator Comeau: Stevie Cameron!

Senator St. Germain: I do not want to mention names.

I have the deepest respect for Senator Austin as an individual and I know that the minister would not do this personally. However, it has happened. The media has written about it and we all know it has happened. What remedy is the present government taking to prohibit these vicious personal attacks and abuse of power by the PMO and others?

Senator Austin: Honourable senators, I absolutely deny any vicious attack or abuse of power by the government.

If Senator St. Germain is referring to the actions of the Royal Canadian Mounted Police, then he will be aware that those actions are taken on the basis of its own independent judgment, under the authority that it is given by Parliament. The government has no role to play in the decisions of the RCMP with respect to its investigations. If Senator St. Germain sees an abuse of power by the government, I should like him to name a specific circumstance so that we can talk about hard cases rather than this airy-fairy abuse of power, dust-in-the-air statement.

Senator St. Germain: I can tell the minister that there is no airy-fairy Gerry. I will name them: Allan Rock and Stevie Cameron. There are two examples. There is also an example of a vicious attack on a former Prime Minister, a great Canadian and someone who contributed greatly to this country. Regardless of how one cuts it, there was an attack on him. The government sent him \$2 million because of the injustice that was brought on him, yet my honourable friend sits here today and says that these abuses do not happen.

Senator Austin: Honourable senators, it has no value to go down the path of a circumstance in which the former Prime Minister, the Right Honourable Brian Mulroney, has resolved whatever issues affected him with the Government of Canada. He has asked that they be set aside, put on the shelf. I do not know why Senator St. Germain wants to keep raising Mr. Mulroney's name and reminding the Canadian public of events that should have been put away.

Hon. A. Raynell Andreychuk: Honourable senators, I have risen before to ask this question: Is it now the practice and the policy of the government to obtain a complete security clearance before a head of mission is appointed?

Senator Austin: Honourable senators, it is my understanding that it is the practice to seek security information on persons who

are the subject of a possible Order in Council. That has been a long-standing practice.

Senator Andreychuk: The practice is that if there is a recommendation for an appointment, it is always subject to security clearance before the actual Order in Council is made. If that rule was followed in Mr. Liddar's case, is the honourable leader saying that there were assurances from the RCMP that there was a security clearance but that something has happened in the intervening period to warrant investigation, or is he saying that the first check is being done now?

Senator Austin: Honourable senators, I have no information to offer the chamber with respect to the process of security clearance in this particular circumstance. I cannot go to the dance with Senator Andreychuk on her speculation.

Senator Andreychuk: It is not a dance; I am declining the offer.

Senator Austin: I will go to other dances with you, however.

Senator Meighen: Stop waltzing around the question!

Senator Andreychuk: It is neither a tango nor a waltz. It is a straight question. The responsibility lies with the government. The government continues to ask for more legislation to make Canadians safe. However, the way we make Canadians safe is by administering the existing practices and policies.

When a head of mission goes overseas, he or she goes with the authority to bind the state. There must be a full security clearance or that person should not be appointed. Mr. Liddar's appointment was announced, so I presume he was cleared. Therefore, there had to have been a proper RCMP investigation, CSIS investigation and some certification to the government that there was a clearance.

I think the government should answer by saying that it sought a clearance and received a clearance before it made the appointment. I agree that the honourable leader cannot go into the details of RCMP investigations at the moment, but did the government follow the rule to obtain a security clearance before the appointment? That is a government responsibility, not an RCMP or CSIS responsibility.

Senator Austin: As I have said in answer to a question posed as the first supplementary question of Senator Andreychuk, I am absolutely confident that the government will follow a long-standing policy, but I have no information with respect to the circumstances being addressed.

Senator Andreychuk: Could I ask the Leader of the Government to look into this matter and determine whether clearance was obtained? Could we have that answer in a written form in due course?

Senator Austin: Honourable senators, I have grave doubts that I would be able to obtain any information with respect to this issue until it is made public by the Minister of Foreign Affairs.

Senator Andreychuk: I am not asking for security information nor am I asking for existing government assessments. I simply want to know whether the government received a clearance before it made the appointment, or did it make the appointment without the clearance? That is a government responsibility and such information should be available to the public. I am asking if the policies were followed. When we send Canadians abroad, it is extremely important that they have the full trust, confidence and security clearance on behalf of Canadians. It is a government responsibility to assure Canadians of that fact only. If there was no clearance, we need to know; if there was a clearance, we need to know. The content of the clearance is not for us to know.

Senator Austin: Honourable senators, I am certain that in the proper course the information that Senator Andreychuk is requesting will be available, subject to the rights of privacy under Canadian law to which the individual in question is entitled.

Hon. Marcel Prud'homme: Honourable senators, the gentleman in question has publicly announced that he is giving up his privacy rights to not reveal anything.

Honourable senators, the Senate will adjourn today and may or may not return on April 20. The case in question is becoming most embarrassing. If one reads *The Hill Times*, one will see that names are being thrown out by Mr. Cleroux. Names like Stan Darling are being used. I do not know how many senators know Stan Darling, but he is as straight and honest as an arrow. One could never find a better man than Stan Darling in the House of Commons.

There is then Mr. Corbett, for whom Mr. Liddar worked; and then Senator Forrestall. These names are in Mr. Cleroux's article, so I might as well mention them. Names like Joe Clark have been thrown in. These names go back 20 years. My name is included in the article. It would be much more tragic if I were to say exactly what happened. I will not because it is too embarrassing and it is too divisive. I hope the minister is listening carefully. It is too dramatic and too divisive. Senator Macquarrie was a man who happened to hold some opinions or views that were not popular in the old days — with whom I personally have no relationship, except to know that we happened to share the same opinion. He was a great mentor of many members. Senator Macquarrie was no fool; he was a great historian, a great scholar.

• (1510)

Names are being thrown out. The Sikh community in Canada is growing. Canada is changing dramatically. There are hundreds of thousands of new Canadians. They wonder what is going on. What is wrong with this man? Is this a witch hunt? I do not know. Being 40 years in Parliament, I know what I am talking about, sir.

Senator Stratton: Question!

Senator Prud'homme: As you may know, 30 years ago, I met the commissioner of the RCMP. I requested security clearance, and was completely secure at my request.

As we are about to adjourn, would the leader convey our concerns to the proper authorities? I am being very calm in

dealing with this issue because I know how hot, explosive and even dangerous the issue will be if it drags on and on. It is unfair to Mr. Liddar.

Senator Stratton: Question!

Senator Prud'homme: I do not know who is saying that. Who wants me to ask the question?

The Hon. the Speaker: Would you come to your question, Senator Prud'homme?

Senator Prud'homme: I would like the government to know how extremely concerned we are as members who care for Canadians' rights.

Senator Austin: I assure Senator Prud'homme and also Senator Andreychuk that the views expressed by them on this issue will be conveyed to the Minister of Foreign Affairs.

HEALTH

LONG-TERM FUNDING

Hon. Wilbert J. Keon: Honourable senators, my question is for the Leader of the Government in the Senate. A speech given by the Prime Minister in Winnipeg last Friday placed all hopes for health care funding on the outcome of the first ministers meeting this summer. Dr. Sunil Patel, President of the Canadian Medical Association, was critical of the Prime Minister's desire to put off this discussion until the summer, saying:

If we continue with the dithering and debate, it could very well be a death knell for the Canadian public health care system.

Does the federal government have any backup or fall-back or alternate plan to deal with long-term health care funding if a deal cannot be reached by the provinces in the summer?

Hon. Jack Austin (Leader of the Government): Honourable senators, Senator Keon's question has two parts. With regard to the first, an integrated attack on Canada's health problems as they have been emerging, and as the honourable senator has in previous questions outlined in this chamber, requires the cooperation of the federal government and the provinces under our Constitution. The federal government's role, as we know, is the power of the chequebook. The provinces are the administrators of these programs. They decide the priorities under current practice. In order to be able to add new items to the agenda, two things will be required — an agreement and cash. That is what the July meeting is all about.

As to the second part of the honourable senator's query, I do not think it would be useful for me to answer his hypothetical question, which is: What will the federal government do if there is no agreement? The Prime Minister is taking every possible step to ensure that the provinces understand that the Government of Canada wants that conference to succeed and is willing to add funds to health care in Canada, provided there is agreement with respect to the objectives and an accountability with respect to the application of those funds on the part of the province.

I should like to add in this rather long answer that the Canadian Health Council is designed, subject to the agreement of the federal government and the provinces, to play a critical peer group role in designing new objectives for Canadian health care.

Senator Keon: I thank the Leader of the Government for his answer. I agree it is unfair to ask him to speculate on what might come about, but I believe everybody agrees that, in the short term, there will have to be more cash from the federal government. Everybody who is sincere about this matter also agrees that cash is not the answer, that this needs a lot more — planning, communication and so forth — to make the system as we know it now financially sustainable.

It would be a serious setback if, in the short term, some cash does not flow to keep things going until we design a master plan. My supplementary question is: Does the minister perceive some cash flowing without having to wait for all this to be settled?

Senator Austin: As Senator Keon knows, this chamber passed Bill C-18, and I am sure the cheques are on the way to the provinces for the \$2-billion, one-time cash infusion. Hopefully, that will be used as a transitional fund for existing operations. All of us hope that the federal government and the provinces will come to a balanced agreement that will ensure the current standards of health care in Canada and, indeed, improve them.

NATIONAL STRATEGY FOR CANCER CONTROL— FUNDING

Hon. Michael A. Meighen: Since April is the Canadian Cancer Society's Daffodil Month, I have a supplementary question of the Leader of the Government in the Senate, pursuant to both a speech made by Senator Carstairs on March 23 and a general question of health care funding raised by Senator Keon.

As I am sure the government leader is well aware, Health Canada has a national strategy for the control of HIV/AIDS, which causes, incidentally, about 600 to 700 deaths per year, and that is funded at over \$42 million per year. It has a national strategy for the control of diabetes, which causes about 31,000 deaths per year, and that is funded at an average of \$23 million per year. However, Health Canada's national strategy for cancer control — a disease that takes close to 60,000 people per year — is funded at only \$600,000. That is the amount Health Canada provides to the Canadian Strategy for Cancer Control, an organization that has developed a blueprint for substantially improving the cancer morbidity and mortality statistics across the country.

My question to the Leader of the Government is this: Will he seek to obtain a commitment from the Government of Canada to provide the Canadian Strategy for Cancer Control with the kind of improved funding that is required to implement its own blueprint?

Hon. Jack Austin (Leader of the Government): Honourable senators, I have received vigorous advocacy from the B.C. cancer control groups and research groups in my own province of B.C. I am aware of the concern that they have with respect to the federal government's present support for overall strategic definition of

the work to be done and the networking of people to attack the problem of cancer in Canada. I consider the honourable senator's representation to be a very important one. I will add his comments to my own which I have taken forward to the Minister of Health.

I recognize that he is wearing a lapel indicating his support for cancer research in Canada. This morning I received in my office a bouquet of daffodils from British Columbia.

• (1520)

VETERANS AFFAIRS

COMPENSATION FOR VETERANS EXPOSED TO CHEMICAL TESTING—COST OF LEGAL FEES

Hon. Michael A. Meighen: Honourable senators, my question is again to the Leader of the Government in the Senate. I should like to follow up on a question I asked a month ago and, to which, in spite of all odds, I know I will receive an answer. That question concerned the rather stingy compensation the government has decided to provide veterans who were subject to chemical agent testing by our own government.

It always seems to be the case, honourable senators, with this government that no action is taken on veterans' compensation until the government is pressed to the wall to do so, usually by a lawsuit instituted by the veterans themselves. This case is no different. It was only after a lengthy and expensive class-action suit by the veterans that the government agreed to provide them with this limited compensation.

That means, therefore, that the veterans who themselves spearheaded the lawsuit have accumulated substantial legal fees that they are now responsible to pay.

My question for the leader is this: Will he, now that the government has decided on a compensation package for the veterans, undertake to urge his colleague the Minister of Veterans Affairs to agree over and above the compensation package to pay for the legal fees? As he well knows, had it not been for the legal action, there would have been no compensation package, and it is the veterans themselves who are forced to bear the not-inconsiderable burden of these fees. It seems to me that equity and justice would dictate that the government pay those fees.

Hon. Jack Austin (Leader of the Government): Honourable senators, I will convey that representation to the Minister of Veterans Affairs.

However, I would add that all ministers are obliged to follow the advice of the Minister of Justice as represented by the Department of Justice. I believe that it would be possible for the Minister of Veterans Affairs and myself to have a meeting with the Minister of Justice on this topic.

VIA RAIL

THE BUDGET—
CUTS TO COMPANY'S CAPITAL BUDGET

Hon. Donald H. Oliver: Honourable senators, my question is for the Leader of the Government in the Senate, and it has to do with VIA Rail.

Recent newspaper reports indicate that Prime Minister Paul Martin, former owner of Voyageur Bus Company, was not known to be a friend of VIA Rail, as was shown by route cuts in his early budgets.

Before entering cabinet, Mr. Martin was openly critical of VIA Rail, and *The Globe and Mail* newspaper of March 10, 1989 reported the following:

"VIA Rail is being used to destroy Voyageur," he charged, adding that the federal subsidies to the Crown corporation represent unfair competition.

Could the Leader of the Government in the Senate advise the Senate as to whether the decision in the most recent budget to cut back VIA Rail's capital budget was that of the Minister of Finance alone, or did the Prime Minister have a hand in that decision?

Hon. Jack Austin (Leader of the Government): Honourable senators, did I understand Senator Oliver to be quoting from a newspaper story from March 10, 1989?

Senator Oliver: Yes.

Senator Austin: That was at a time when the government of the Right Honourable Brian Mulroney was in office. Am I correct? If that were the case, Paul Martin would not have been a member of the government and, indeed, as a back-bench MP, would have been entitled to have and manage investment interests.

I am a little puzzled by the question. Perhaps the honourable senator could re-form it.

Senator Oliver: The question, honourable senators, is clear to me. What *The Globe and Mail* reported on March 10 was a quotation of the words used by Mr. Martin, and Mr. Martin, as owner of Voyageur Bus Lines, said that "VIA Rail is being used to destroy Voyager." He also said that federal subsidies to the Crown corporation, VIA Rail, represent unfair competition. That was the quotation in *The Globe and Mail*.

The question is this: If that was his view then, are the cuts to VIA Rail's capital budget in this most recent budget by his hand?

Senator Austin: The honourable senator is asking for some sort of idle speculation, and I have no intention of providing it.

FOREIGN AFFAIRS

IRAQ—POSSIBLE DEATHS OF CANADIAN CITIZENS

Hon. J. Michael Forrestall: Honourable senators, I have a couple of brief questions for the Leader of the Government in the

Senate. One is to ask if the minister knows whether the EH-101 Cormorants have, as yet, been put back into full service.

My question has to do with Canadians involved in the Iraq war. I preface my remarks by extending my deepest sympathy to the families of not only Canadians who lost their lives in that war but also to the families of all those injured.

On March 2, 2004, the London-based British daily *The Independent* reported that a little-known terrorist group called Jaysh Ansar al-Sunnah claimed in a videotape to have killed Canadian and British intelligence agents near Yusufiyah on January 5.

Can the Leader of the Government tell the chamber whether any Canadian government-employed personnel, either permanent or contract, have been killed in Iraq since the U.S.-led invasion?

Hon. Jack Austin (Leader of the Government): Honourable senators, in order to give an accurate answer, I will make inquiries and provide an answer to Senator Forrestall as soon as possible.

While I am on my feet, as a result of a question which Senator Forrestall asked me yesterday, I would draw his attention to the release today of a document, "The National Security Committee of Parliamentarians," which is a consultation paper to help inform the creation of a committee of parliamentarians to review national security.

Senator Forrestall: Would the minister send that over, please?

I have a brief supplementary question. I hesitate to ask, but the *Toronto Star* reported the other day that Richard Flynn, 54, of Mississauga, a retired RCMP officer, was killed in a bomb attack on January 5, near Falluja.

Can the Leader of the Government tell us if this former member of the RCMP VIP protection squad was in the employ of any government department or agency at the time he was so sadly lost in that incident?

Senator Austin: Honourable senators, the information I have is that he was retired from government service and was an employee of a private company.

INTERNATIONAL TRADE

UNITED STATES—
BOVINE SPONGIFORM ENCEPHALOPATHY—
OPENING OF BORDER TO BEEF EXPORTS

Hon. Leonard J. Gustafson: Honourable senators, I have one quick question for the Leader of the Government in the Senate. The mad cow disease has been very well handled by the government and especially by the health authorities in working together to try to get the border re-opened. Does the minister have any new information on the possibility of the border re-opening shortly?

Hon. Jack Austin (Leader of the Government): Honourable senators, I do not. As the honourable senator is well aware, we are awaiting the termination of the consultation period which was decided upon by the Department of Agriculture in the United States, and my understanding is that date is April 7, which is a week away, to say the obvious. I would hope, as I know the honourable senator does, that shortly after that date we will have some signal from the United States.

NUNAVIK

COST OF LIVING—DISCRIMINATORY TAX SYSTEM— PRESENTATION OF PETITION

Leave having been given to revert to Presentation of Petitions:

Hon. Charlie Watt: Honourable senators, I have the honour to present a petition of 94 households from the northern municipality of Inukjuak, bringing the total to 246 households from the Nunavik region.

The petitioners pray and request that the Senate of Canada consider the following points:

That the villages of Nunavik are isolated northern communities with no road access to the goods and services paid for by taxpayers and readily available throughout southern Canada;

That the costs of living in Nunavik northern villages varies from a low of 150 per cent to a high of over 200 per cent of the cost of living in southern Canada, the average being 182 per cent of the cost of living in southern Canada;

That the higher cost of living in Nunavik and the filing of income tax returns, which are not available in the Inuit language, is therefore a burden on those individuals;

That the residents of Nunavik who do not file are hereby deprived of significant sums of money in refunds to which they are entitled;

That the above conditions give rise to legitimate grievances and fuel discontent among the residents of Nunavik;

That equality before the law requires more than treating people in the same way, but requires people to be given equal access and opportunities;

Therefore, your petitioners pray that the Senate:

(a) study their grievances set out in this petition, the current systematic discrimination against them in the tax system and all other related matters that may seem fit to it, with a view to recommending measures that could be taken to provide the fair treatment and economic well-being of the residents of Nunavik; and

(b) urge the Government of Canada to respond to those grievances without delay.

• (1530)

ORDERS OF THE DAY

SEX OFFENDER INFORMATION REGISTRATION BILL

THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Pearson, seconded by the Honourable Senator Poulin, for the third reading of Bill C-16, respecting the registration of information relating to sex offenders, to amend the Criminal Code and to make consequential amendments to other Acts.

Hon. Gerry St. Germain: Honourable senators, Senator Cools had asked me a question on Bill C-16, concerning the situation that faces police officers in regards to crimes against children and women.

Very briefly, dealing with crimes of this type is very difficult for a police officer. The individuals who commit these crimes are generally loners, whereas often more than one individual is involved in other types of crimes.

The perpetrator of crimes against children and women could be a next door neighbour, or anyone, for that matter. To put it succinctly, that is what makes it so challenging for police officers, and that is why a registry is that much more important.

Hon. Consiglio Di Nino: Honourable senators, I rise to address Bill C-16 at third reading. Bill C-16 will create a national sex offender registry in Canada, and we on this side support this bill.

Bill C-16 was passed in the other place first as Bill C-23 in the Second Session of the Thirty-seventh Parliament, but it did not really begin as a government initiative. To call it that oversimplifies the events. In truth, this legislation would likely not exist if not for the tireless efforts of Jim and Ann Stephenson, whose son Christopher was killed by a sex offender. Mr. and Ms. Stephenson convinced the Province of Ontario to create a sex offender registry and continued to lobby for a national database. Eventually, all provinces came together and asked the federal government to build this registry.

The sex offender registry will provide a useful tool for law enforcement officials investigating sexual assault, abduction of children, sex-related homicide and other crimes. The registry will also help those who have been convicted of these offences by allowing them to quickly be disqualified from suspicion in sex crimes investigations.

The legislation is tempered. It is not a public registry. The information will be accessible to police, not neighbours. While some have said this is not strong enough, the evidence appears to support this as being the best approach. It increases offender compliance with the database and avoids hanging a scarlet letter around the neck of individuals who have served their sentences.

This legislation has much to commend it. That having been said, Bill C-16 should not pass without us acknowledging that it is far from a perfect bill. Of course, there is the old saying, and I quote, "The perfect is the enemy of the good." That is why we support this legislation, even with its flaws. It is a good start and can be improved upon over time, but we would be remiss if we did not place the criticism of the bill on the record.

When I examine this bill, it seems evident that the government wants to be seen to be creating a sex offender registry, but deep down I suspect that some in government find the idea distasteful. They think of such a registry, I would guess, as a right-wing, hot-button, law-and-order issue, something that they are forced to do for political purposes but that is not something they would normally choose to place on their political agenda. This is evident not only from the fact that the penalties for reporting are so low, but from the hoops the system has to jump through to add any name to the registry.

In committee, one witness, Professor Allan Manson, said that a sex offender registry was a waste of money. He said there was not much "bang for the buck." His views, I think, articulate the real views of some in government and society. The registry, he said, would cost too much money and make us feel like we are doing something when it is really a distraction from other initiatives. His reason for this seemed to be that there were no bulk numbers of sex crimes occurring.

I ask you, honourable senators, what is one life worth? Professor Manson cited a study that focused on a sex offender registry in Massachusetts. He said that researchers had looked at past homicides and concluded that had a sex offender registry been in place only four of 136 homicides would have been aided by the registry. He seemed to take this as an indictment. I saw it as a victory. The registry could have solved four of these heinous crimes, and that statistic does not include abductions and sexual assaults that do not end in homicide.

When we pressed him about other victims, he had no statistics with him, but he pointed out that 79 per cent of sexual assaults against children happen in their homes, by family members. Again, where he saw an indictment I saw 20 per cent of cases where the offender registry could be valuable. Even if it was just a quarter of that number, 5 per cent, it would be well worth the cost.

None of those statistics includes sex offenders who stay on the straight and narrow because they know they are being scrutinized. None of those statistics includes the improved efficiency with which police will now be able to disqualify past sex offenders so that they can focus on other aspects of the investigation. None of their statistics addressed the situation of a woman, having been sexually assaulted by a stranger, who remembers certain characteristics, like a tattoo or a scar. The database would be very useful in more effectively addressing those and many other situations.

Let us look at a real life example. The *Ottawa Citizen* reported last Thursday, March 25, 2004, on page D3, that a 33-year-old man convicted of possessing and distributing child pornography and using the Internet to set up a sexual encounter with what he

thought were two 13-year-old girls was released after spending six and a half months in jail. The man is in treatment. The authorities believe he is at a very small risk of re-offending. He may go on to a productive life, crime free.

However, we should nonetheless have knowledge of his whereabouts for the safety of our children. As well, by reporting regularly, he would be reminded of his conviction; it would remain fresh in his mind. With any luck, this would act as a further deterrent to re-offending. This database does not hang a scarlet letter around his neck, but it keeps him on a reasonable leash.

It is a useful tool but, again, it is far from perfect. During second reading, I raised a number of concerns that I hoped we would receive answers to in committee. The minister and government officials responded to some of these questions, but I still have some concerns, and I am not the only one.

Honourable senators, while researching this bill, I asked the Toronto police for their comments. Staff Inspector Bruce Smollett responded to my request with the following comments and criticisms, which I wish to place on the record:

First, while there is provision for retroactive data entry into the new federal databank, it is restricted only to those offenders serving a sentence, or who are incarcerated at that time.

Second, an investigator may only access the federal database when the investigator reasonably suspects a crime of a sexual nature has occurred. This poses two problems. First, the police cannot use the database to quickly rule out the possibility of a sexual abduction. Second, there is no stated authority to access the database in order to verify or audit compliance by offenders.

Third, disclosure of offender information contained within the federal database may only be provided on the authority of the RCMP Commissioner. The RCMP cannot delegate such authority to either provincial or municipal police services. This may become problematic when there is a requirement to disclose such information to a Crown's office.

Fourth, there is no provision for geo-coding. Investigators cannot search the database for offenders who reside within a certain radius of an incident.

Fifth, offenders are only required to report fifteen days after a change in residence. Or similarly, should they go on a lengthy holiday, they are only required to notify of their extended absence fifteen days after the commencement of their holiday — even by telephone. There should instead be a provision for the offender to notify fifteen days prior to an address change or some other planned lengthy exclusion.

Staff Inspector Smollett worried that "the federal database will serve more as a statistic based information system with limited investigative values for police services."

• (1540)

Other concerns have also been raised. First, during deliberation before the committee, Tony Cannavino, President of the Canadian Professional Police Association, who supports the legislation, I should say, pointed out that failure to register on the sex offender database by an offender results in a maximum of a two-year penalty, but that failure to register in the gun registry results in a maximum 10-year penalty. When asked about this in committee, the Minister of Public Safety had no answer for why this was so, saying only that she found the comparison to be "not helpful." However, it is helpful. It is a fair observation of the government's priorities.

Second, as mentioned by colleagues in the other place, the process to be placed on the registry is far too cumbersome and invites unequal application. In order to be placed on the registry, a Crown prosecutor must bring an application before a judge. If that application is granted, the offender has access to separate proceedings by which he can apply to be taken off the registry if he feels that the stigma of being in the registry is affecting him in a "grossly disproportionate" way. This brings an inequity into the system since certain judges may grant applications while others will refuse them. Moreover, certain Crown counsel will bring the applications while others will not. Certainly a mandatory database with stronger penalties for non-compliance would be an improvement on this legislation.

Third, as I stated in my speech on second reading, photographs of offenders are not mandatory. They may or may not be included at the discretion of the functionary interviewing the offender. Upon investigation, I have been informed that this is because police services are in the midst of an upgrade to a better database that will be able to incorporate digital photographs. We need to monitor developments to ensure that these improvements are employed fully once they are constructed.

Fourth, a glaring inadequacy is that young offenders are not included in this database. While I understand the need for young offenders to be treated differently, I do not know why they should be exempt from this legislation. It cannot be because of stigma. The government has stressed time and time again that the database is an investigative tool and that this information will only be accessible to investigators. They have also stressed that this is not a form of punishment; rather, it is an "administrative consequence."

Honourable senators, I am a strong supporter of programs that help troubled and at-risk youth to get back on the right track. I do not support the "lock them up and throw away the key" philosophy, but we all know that sexual offences are often the result of a compulsion. They have a very high rate of recidivism as a result of that compulsion.

A new study published in the *Canadian Journal of Behavioural Studies* and reported in yesterday's *The Globe and Mail* makes the point strongly. I would like to quote from the story.

Treating sex offenders in custody for their deviant urges has little impact on whether they go on to commit sex crimes — or other offences — after they're freed, according to a new study."

The article quotes the study as saying:

It is reasonable to conclude that the overall treatment program did not have any meaningful effect on recidivism rates. We still have much to learn about how best to intervene with sexual offenders.

It seems to me that individuals with such a problem should be monitored, no matter their age.

Finally, in terms of Charter scrutiny, the government's representatives have stressed that they are confident that the database will pass Charter scrutiny, but some of my colleagues are not so sure. The problem of retroactive additions to the database appears to be a core concern. Included in this concern is the fact that this new federal database will incorporate all of the names in the Ontario sex offender database. This means that, in some cases, offenders who have completed their sentence will be incorporated into the Ontario registry. A different offender who committed the same offence at the same time in Manitoba or Nova Scotia may not be included or will not be included in the database. As pointed out by several of my colleagues on the committee, this creates another inequity in the database.

Let me be clear. I support the retroactive application, but I raise this issue because this problem could have been minimized, if not eliminated, had the government responded to the need for this action quickly. Manitoba created a community notification advisory committee to review cases of convicted sex offenders thought to be at high risk to reoffend eight years ago, in 1995. President Clinton passed Megan's Law in the United States in 1996. The Ontario registry came into force three years ago, under Christopher's Law. If the federal government had cooperated with the provinces at that time and created a national database in conjunction with Ontario or created one before they did, the problems could have been avoided. Instead, they needed to be begged to act.

Honourable senators, we on this side support this legislation. It is a good start. It provides a new investigative tool for the police. It will ultimately, I believe, save lives and prevent the victimization of many innocent people. However, we should be vigilant and look for ways in which we may improve it over time.

A review of the registry is scheduled to take place two years after it comes into force. I hope the government will take that review seriously and look for ways to make this good start into an even better tool for law enforcement and society.

Honourable senators, I am not deluding myself. Bill C-16 will not solve by itself the problem of sexual offences. Even if it were a perfect database, it would not be a panacea. Indeed, the fact that we need this kind of legislation speaks to a failure of our society to deal with this issue at a fundamental level. We should not pass this legislation, pat ourselves on the back for having done

something, and never think of this uncomfortable topic again. It must not distract us from developing strategies and allocating resources in support of other programs that would aid us in preventing and combating these horrible crimes.

Bill C-16 is an important tool. I believe it will help law enforcement in the difficult task of investigating these heinous crimes and will reduce repeat offences. I will be voting in favour of the bill, and I will urge all honourable senators to do so as well.

Hon. A. Raynell Andreychuk: Honourable senators, I want to say a few words about this bill, which I support. I commend Senator Pearson for her comments. I think she fairly, adequately and passionately laid out why we need legislation. I will not repeat her comments. She has adequately made the case for the registry, and Senator Di Nino has added further comments today in that vein.

Public expectation has grown in believing that this tool, this registry, will be a benefit to Canadians. It is being tested elsewhere in the world, and therefore it is of some note that Canada wishes to do the same. However, I have stood before and said that we should not be fooled. The registry will have difficulties. This is not the first time that legislation has come forward where there were grave questions about whether it was constitutional and could withstand a Charter challenge. Those pieces of legislation were withdrawn, as they clearly offended Charter principles.

I commend the government on attempting to balance the need of society for protection and the need to ensure that the privacy of offenders be maintained. The government is in fact required to do so by virtue of the fact that offenders serve their sentences. We should punish people for offences, but once they have served the sentences, they should then become citizens like any others. That principle is very important in society. The registry goes beyond that, and so it is an intrusion and puts a longer stigma on people than the classic punishment model used to do. Therefore, I think we must institute a sexual offender registry with some caution.

• (1550)

Honourable senators, there is a tendency to pass legislation and to publicize it in an effort to give a comfort level to people that we are protecting them. Professor Manson, on behalf of the Canadian Bar Association, fears that the registry might even be a detraction; that is, people will believe that they are now protected from sexual offenders and will not take other appropriate steps.

Following the discussions in our committee, Senator Di Nino has already noted that we must be vigilant to ensure that there are other mechanisms and avenues to support those who could be vulnerable in our society. Therefore, this bill is not the be all and end all. It is simply one tool, a tool that has difficulties in it.

It is important to put the other side of the argument on the table. That argument was made by the Canadian Bar Association, which represents prosecution and defence counsel.

On page 1530-3 of the evidence given before the Legal and Constitutional Affairs Committee on March 24, 2004, Professor Manson stated:

I think it is important to understand why we think it is bad policy. That gives context to any potential Charter difficulties because, if we assume that at some point there might be some constitutional challenges, the same factors will apply with respect to the section 1 justification.

He went on to say:

We think this scheme, and in fact any sex offender registry scheme, will achieve very little, will cost a lot, and will distract attention from real sources of risk to children and other vulnerable people. It will distract attention from developing potential strategies for ameliorating those risks, which everyone has to agree underlies the concern to develop a scheme like this, the need to protect vulnerable people in the community, especially children.

In answer to another question by the Canadian Bar Association, the minister indicated that she believed it was not a punishment, that Bill C-16, in using a registry, was in fact an effective investigative tool. She said that it is like the DNA Identification Act. However, when Professor Manson came before the committee, I asked him the following question:

What troubled me was in the government's submission. They said that being put on a registry was not a punishment. It was an investigative tool and it was for the benefit of the people on the registry as much as for people who might some day be subject to a sexual predator. Based on the fact that they say the DNA has discounted convicted criminals as often as it has ensnared them, do you believe that the sexual registry is part of the punishment of the crime that you committed or is merely an investigative tool, a condition but not necessarily a punishable one?

In his reply, Mr. Manson stated:

When you are creating burdens that impact on people's liberty interest, it has to be viewed as part of a punishment. It does that by requiring people to physically report but more importantly by subjecting people to potential penalties for failure to comply.

He went on to say:

I think it is wrong to assume that it is an investigative tool. It is very unlikely. It is not like the DNA database.

When probed further about what kind of investigative tool would comply with the Charter, he said, on page 1530-9.

I would refer you to a report done by Justice Archie Campbell of the Ontario Superior Court on the Bernardo prosecution. He did a one-person task force.

Incidentally, he was also the judge involved in the SARS inquiry. Mr. Manson went on to say:

In his lengthy and detailed Bernardo inquiry, about what went wrong with the investigation and why it took so long, et cetera, he talked a lot about a new software program a number of police agencies are using. It is called ViCLASS. It is about tracking violent offenders through characteristics of offence. I understand that most sophisticated police agencies in Canada are now plugged into it. That is a tool. It creates no burdens and penalties. It means when you investigate case X and you bring your prosecution against that offender, you put all of your facts into a database and it is available to all the other police agencies. Whether they are in Vancouver, Saskatoon or Restigouche, they can plug in and say, "We have a similar case. Was this guy in our province?" That is a tool that makes sense. DNA is a tool that makes sense.

He went on to say that "This" — meaning the registry — "just does not make a lot of sense."

Professor Manson has put a large red flag on the fact that he does not believe it will pass and will be considered to be part of punishment. I think we have to watch this legislation to see which school of thought is correct.

Having said that it was bad policy, Professor Manson, on page 1530-3, indicated some serious Charter concerns. One he put forward was that the registry will not trap the people who have committed the homicides. He stated:

In 2001, 39 children in this country were, out of 554 homicides, children under the age of 12. Thirty were killed by their parents, six by friends and relatives and only three by strangers.

His caution was that there is not this need to trap other people, that it is children who are vulnerable in their own settings. His words were that we should work on "dysfunctional home contexts".

He further went on to say:

Secondly, if we look at the nature of this kind of registration scheme and listen to the police argument that it will help the investigation and apprehension of people who have committed crimes of this nature, especially crimes against children and other vulnerable people, you have to remember that there are three preconditions before that could ever happen. The first is that the real perpetrator must have been previously convicted; therefore, people like Paul Bernardo, for example, would not be on your registry.

Secondly, assuming that, the perpetrator would have to be someone who was on a registry, complied with the registration, and committed the new offence or attempted to commit it near the registered address. If they moved to the next county it is a different ballgame.

He is cautioning that there will need to be an extraordinary number of resources to ensure everyone has access to the data and that it is cross-referenced across this country — a monumental task with which CPIC, the existing RCMP system, struggles.

The potential Charter violations that he pointed out are listed on page 1530-4. He believed that the first reason there may be a Charter violation is that orders are of a mandatory length, based solely on the maximum length of sentence. They do not engage the section 7 principle of a guarantee of fundamental justice.

Mr. Manson added:

There is no link between blameworthiness, dangerousness and the risk and length of the orders. The orders are all 10 years, 20 years or life. They are mandatory and there is no link between these periods and the actual case and the risk presented by that offender.

The second question regarding a Charter violation is that the bill is complicated by "retrospectivity". There are two aspects of this in the legislation. With respect to mandatory orders, the proposed subsection numbers are 490.013(2) to (5). With respect to "retrospectivity," it pops up twice. Proposed subsection 490.012(3) provides for lifetime orders in the case of people previously convicted, including those convicted before the legislation comes into force. That is the retrospective application. Then there is 490.019 that permits notices to be served on people previously convicted or those in the Ontario registry.

We do not need to get into a debate about referential adoption in the use of the Ontario registry in that regard. Our point is a simple one: Constitutional law in Canada, both the jurisprudence of the Supreme Court of Canada — for example, from cases like *Gamble v. The Queen*, 1988 — people are entitled to be sentenced in accordance with the law that exists at the time of the offence; and 11(h) of the Charter, a sentence cannot be compounded or supplemented after the person has been convicted and punished....

The third concern we have is the exception in 490.012(4), if an offender shows that there is a gross disproportionality between the impact on their privacy interest and the public interest, that they are exempt. In our view, this is an illusory exemption, and those defences are constitutionally prohibited as explained by Chief Justice Dickson in the case of *Morgentaler*.

• (1600)

The Canadian Bar Association is saying that this is untested and uncharted ground. We are identifying something that has been traditionally punishment in a whole bunch of cases. We are trying to put forward this tool and say that it is not a part of the punishment. That will be quickly challenged in the courts.

If we pass this proposed legislation and the court finds it unconstitutional, or a violation of the Charter, will Parliament stand up and be counted, or will we aim at the courts and say, "Look, we did this but the courts threw it out"? We will undermine again what I call the independence of the court and the proper role of the court.

While I have the same fears as the Canadian Bar Association, we have tested and tested this legislation —

The Hon. the Speaker *pro tempore*: I am sorry to interrupt the honourable senator but her time has expired.

Senator Andreychuk: I have but two sentences. I would ask leave, honourable senators.

The Hon. the Speaker *pro tempore*: Is leave granted for Honourable Senator Andreychuk to continue?

Hon. Senators: Agreed.

Senator Andreychuk: We have tested and tried to be responsive to the concerns of the Canadian Bar Association and to the proportionality between the victim and the offender. I believe we should take the risk and see if there is a Charter challenge. However, I think the Department of Justice should be very cautious when it assesses its cases, and when it puts its registry in place. It must monitor so that, two years hence, we can be assured that we have done the right thing and that we are, in fact, using the right tools. If the tools turn out to be punishments, we should be ready to do the kinds of things that are necessary, like reinforce the ViCLASS, and other things that I think are more appropriate as investigative tools.

While I think there are legal cautions that must be sounded, there are some practical reasons to test this tool. On balance, I am in support of this legislation.

Some Hon. Senators: Question!

The Hon. the Speaker *pro tempore*: Are honourable senators ready for the question?

Hon. Senators: Question!

The Hon. the Speaker *pro tempore*: It was moved by the Honourable Senator Pearson, seconded by the Honourable Senator Poulin, that this bill be read the third time. Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read third time and passed.

CUSTOMS TARIFF

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator De Bané, P.C., seconded by the Honourable Senator Finnerty, for the second reading of Bill C-21, to amend the Customs Tariff.

Hon. Michael A. Meighen: Honourable senators, I am pleased to speak at second reading of Bill C-21, to amend the Customs Tariff.

This bill, as we all know, extends the General Preferential Tariff and the Least Developed Country Tariff for 10 years, until June 2014.

We in the Conservative Party of Canada will support this bill but not without some comment. These tariffs, as noted by the sponsor of the bill, have been in place for some time now. The General Preferential Tariff, or GPT, dates back to 1974. It has been renewed twice since then, each time for a period of 10 years. The Least Developed Country Tariff, or LDCT, was first established in 1983. Like the GPT, it also expires on June 30, 2004.

The government's primary rationale for the GPT and the LDCT is the preferential tariff trade treatment for developing countries as a means for fostering growth and the well-being of poorer nations.

That was the rationale in the beginning, and it remains the rationale today, as can be gathered from the words of the sponsor of this bill in the other place. He stated:

...extending the GPT and the LCDT for another 10 years reaffirms the government's commitment to promoting the export capability and economic growth of developing and least developed countries — the main reasons why these programs were initially established.

[Translation]

Honourable senators, these are fine words reflecting fine intentions. How unfortunate that the government's policy on international development does not give it the importance that it deserves. If the government really wanted to promote economic development in these countries why, during the nineties, did it reduce by 29 per cent the budget allocated to help these nations? This reduction is the largest one in all public spending envelopes in Canada. Also, if the government is really committed to the well-being of the world's least developed countries, why is our assistance program not specifically geared to them? Honourable senators, it may come as a surprise to learn that, according to the Organization for Economic Co-operation and Development, the number one beneficiary of Canadian official development assistance is not a country that is among the least developed nations. It is not Haiti, Sierra Leone or Chad as one might think, but Poland, which is among the top nations in 2003, based on the UN human development index. Indeed, Poland ranks 26th out of 175 countries. This makes it, based on the HDI, a country with a high human development index.

The number two beneficiaries of Canadian assistance are the countries of the former Yugoslavia which, based on the HDI, are all performing well. In fact, only two of the 34 least developed nations based on the UN human development index are among the top ten beneficiaries of Canadian assistance.

[English]

Honourable senators, these statistics, along with the record cuts to the aid budget by the Liberal government, give me and, I am sure, you pause for reflection, especially when one considers the government's stated reason for Bill C-21 — that is, that the renewal of these tariffs is necessary to promote economic growth of developing and least developed nations.

To steal a phrase from television's Dr. Phil, let me ask the government: "How's that working for you so far? The answer, I suspect, is, "Not at all."

Senator Murray: Is that what you are doing with your afternoons?

Senator Meighen: That will show you that I do watch what goes on around me.

Otherwise, we would not be faced with the need to renew these tariffs for another 10 years. For that reason, I find it somewhat disingenuous of the government to rationalize Bill C-21 as part of its effort to promote development, especially when they fail to provide an overarching international development framework in which such measures can be judged and can succeed.

In fact, if anything, the Liberal government's approach to development has worked at counter-purposes to the measures contained in Bill C-21. It is no wonder they need to be renewed.

I know there is more to the LDCT and the GPT than the role of promoting economic development. Indeed, debate on this bill in the other place focused on the impact that those and various other tariffs and trade agreements have on Canadian industry, notably the textile industry. These are important issues that received a substantial airing as Bill C-21 proceeded through its various stages in the other place. No doubt these issues will dominate discussion when this bill is referred to the appropriate Senate committee.

• (1610)

That is why, honourable senators, I have sought today to apply a mild corrective and draw some attention to the development side of these measures, because it is these tariffs alone, among several others, that seek not only to promote trade but also the economic growth of developing countries.

That is a lofty and worthwhile goal, but one that can never be reached unless such measures are complemented by other sincere efforts to promote development.

Speaking of goals, in 1968, Lester Pearson, who had recently retired as Canada's Prime Minister, chaired a UN commission that set 0.7 per cent of gross national income as the appropriate target level for aid. The target for reaching that level was set in 1975 by the Pearson Commission.

[Translation]

Nearly 30 years later, aid is at 0.29 per cent. In the budget tabled last week, the Minister of Finance announced that the envelope for international aid will be increased by \$248 million dollars in 2005-06, as part of the government's commitment to increasing this envelope by 8 per cent annually until 2009. That commitment was made in order to reach the UN Millennium Development Goals, established in December 2000.

In 2009, where will we be in terms of development aid? It will reach a colossal 0.32 per cent of our gross national income. This

is less than half of the goal that former Prime Minister Lester B. Pearson set for Canada in 1975; an objective approved by the United Nations, the World Bank and the OECD.

[English]

Honourable senators, with Bill C-21, the government is asking us to renew for 10 more years certain tariffs that are intended to benefit countries in the developing world, tariffs that have already been renewed several times and that have been in place for decades. I assume, and the government can correct me if I am wrong, that the reason that these measures have a time limit is that we hope, one day, to find that they are no longer necessary. We hope to find that the least-developed countries that are in need of such help today will, one day, graduate to other types of tariffs. I would wager, however, given this government's current lacklustre approach to development, that many of us will find ourselves 10 years from now — I will still be here — being asked to renew these measures once again.

Honourable senators, I stated at the outset that we on this side will support this bill because the measures contained in it are necessary. We support it also in full recognition that those measures are by no means sufficient. It is high time that this government provided the development framework within which such measures would have a better chance of bearing fruit.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker pro tempore: Honourable senators, when shall this bill be read the third time?

On motion of Senator Rompkey, bill referred to the Standing Senate Committee on Banking, Trade and Commerce.

PARLIAMENT OF CANADA ACT

BILL TO AMEND—NOTICE OF MOTION FOR ALLOTMENT OF TIME FOR DEBATE WITHDRAWN

On Motion No. 1:

That, pursuant to Rule 39, not more than a further six hours of debate be allocated for the consideration of the third reading stage of Bill C-4, to amend the Parliament of Canada Act (Ethics Commissioner and Senate Ethics Officer) and other Acts in consequence;

That when debate comes to an end or when the time provided for the debate has expired, the Speaker shall interrupt, if required, any proceedings then before the Senate and put forthwith and successively every question necessary to dispose of the third reading stage of the said Bill; and

[Senator Meighen]

That any recorded vote or votes on the said question shall be taken in accordance with Rule 39(4).

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I would ask that the motion standing in my name be withdrawn from the Order Paper because, as a result of the eminently reasonable consideration of the opposition, it is now redundant.

Senator Kinsella: Agreed on all counts.

Motion withdrawn.

[Translation]

CITIZENSHIP ACT

BILL TO AMEND—SECOND READING

Hon. Noël A. Kinsella, (Assistant Deputy Leader of the Opposition), moved that Bill S-17, to amend the Citizenship Act, be read the second time.

He said: Honourable senators, it is now time for the Parliament of Canada to show leadership in order to correct a terrible mistake that victimized a specific group of people.

[English]

Bill S-17, to amend the citizenship act, will do just that. It will remedy the situation where a person has, as a child, lost Canadian citizenship through the operation of law simply because a parent of that person acquired the nationality or citizenship of a country other than Canada and renounced his or her Canadian citizenship.

Canada's first citizenship act was passed in 1947. Prior to World War II, Canada had a patchwork of legislation, which included the Naturalization Act of 1914, the Canadian Nationals Act of 1921, and the Immigration Act of 1910.

Hon. Eymard G. Corbin: Honourable senators, I rise on a point of order.

I believe we have forgotten something. Senator Kinsella moved, seconded by myself, that this bill be read the second time, but the question was not put to the house from the Chair. Perhaps that ought to be done.

The Hon. the Speaker: Thank you, Senator Corbin. I believe that is correct.

It is moved by the Honourable Senator Kinsella, seconded by the Honourable Senator Corbin, that this bill be read a second time.

Senator Kinsella: Thank you, honourable senators.

In 1947, the Citizenship Act was the first Canadian citizenship act adopted by the Parliament of Canada. It was written in that era, over 50 years ago, and seen in today's light, it was discriminatory to women, certain minority groups and children. In Part III, sections 17 and 18 took away the citizenship of

Canadian-born women and children without their consent or, in some cases, even their knowledge. The rights of women and children were superseded by their husbands and/or fathers. As a result, Canadians automatically lost their Canadian citizenship if the husband and/or parent had a different citizenship or the latter changed his and their citizenship.

Those glaring omissions and inequities resulted in Parliament passing a new Citizenship Act in 1977. The 1977 act ensured that all children born in Canada after 1977 would not ever lose their citizenship, but Parliament failed to make the act retroactive. Therefore, those children born between 1947 and 1977 whose parents renounced their own citizenship automatically lost their birthright and, in some cases, were made stateless.

Some children ceased to be Canadian and did not automatically receive the citizenship of another country. They had to wait until the age of majority to apply for citizenship. In a unanimous 1997 decision, the Supreme Court of Canada in the case of *Benner v. Canada (Secretary of State)* found the 1947 act violated the rights of children born abroad to Canadian women. Thus, remedies were put into effect to protect the citizenship rights of these children. As a result, foreign-born children of Canadian women are now allowed to return to Canada as citizens by simply petitioning the government.

However, Canadian-born children of that same Canadian woman cannot automatically ask to resume their Canadian citizenship. They must apply for immigration, qualify under current standards and wait in line for years for their visas, arrive in Canada as landed immigrants and establish themselves for one more year before they can apply for citizenship. This procedure can easily take three or four years.

The government and members from all sides have now recognized this error and wish to right this wrong. Honourable senators, it is appropriate that this chamber, mindful of inequities when they are found in the law, be ready to deal with them, and I would ask for your support.

Hon. Senators: Hear, hear!

Senator Corbin: Honourable senators, I am pleased to rise today to speak in support of Bill S-17, to amend the Citizenship Act.

• (1620)

As Senator Kinsella has just indicated, this bill would correct a problem encountered by a number of individuals who have been called "Canada's lost children." They are people attempting to reclaim their Canadian citizenship — a citizenship that was lost through operation of law and not through conscious choice or through their own actions or decisions. They are people who were born in Canada of Canadian parents. Their Canadian citizenship was lost only because their parents moved out of Canada between 1947 and 1977 and the custodial parent took out citizenship in another country. The individuals affected would currently be at least 57 years of age and as young as 27 years old. In so doing, the children were taken along willy-nilly, losing their Canadian citizenship but maintaining the same citizenship of their parent.

Honourable senators, Canadians born in Canada after 1977 do not and cannot face this problem, because the Citizenship Act has been corrected for them. Unfortunately, the law was not changed for those born prior to 1977. In my view, our current legislation fails to deal appropriately with the right of citizenship for people dispossessed of their citizenship in this manner.

While I am sure that many children who have left Canada in the company of their parents will have no particular desire to return, those who wish to return ought to be able to come to Canada as citizens and not as immigrants. This bill corrects this inequity in the law. We do not know how many so-called lost children there are, but we do know that at least some of them wish to return to the country of their birth, to reclaim their birthright. I wish to stress that they are not and should not be coming to Canada as immigrants, subject to the various restraints and restrictions that the Immigration Act imposes, along with delays. They will be returning to Canada as Canadian citizens.

The issue raised here by Senator Kinsella is not a question of immigration. It is a question of citizenship and the right — the entitlement — of people who are born in this country of Canadian parents to hold and retain citizenship in Canada, the land of their birth.

Honourable senators, this is one of those occasions when one of the laws of Canada, a law that is no longer in force, has been found to have inequitable consequences. The current law has not addressed the problem, and it is our opportunity to remedy the wrong done to Canada's lost children. It is an issue deserving of detailed examination by a committee of this house.

The Hon. the Speaker: It was moved by the Honourable Senator Kinsella, seconded by the Honourable Senator Corbin, that this bill be read a second time now. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Kinsella, bill referred to the Standing Senate Committee on Social Affairs, Science and Technology.

QUEEN'S THEOLOGICAL COLLEGE

PRIVATE BILL TO AMEND ACT OF INCORPORATION— MESSAGE FROM COMMONS

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons returning Bill S-15, to amend the Act of incorporation of Queen's Theological College, acquainting the Senate that they have passed this bill without amendment.

Hon. Senators: Hear, hear!

[Senator Corbin]

LOUIS RIEL BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Joyal, P.C., seconded by the Honourable Senator Gill, for the second reading of Bill S-9, to honour Louis Riel and the Metis People.—(*Honourable Senator Stratton*).

The Hon. the Speaker: Senator Stratton, do you wish to speak?

Hon. Terry Stratton: I would ask leave to speak to this item later this day.

The Hon. the Speaker: Honourable senators, is leave granted, to return to Bill S-9 later this day?

Hon. Senators: Agreed.

Hon. Anne C. Cools: Is that leave binding?

The Hon. the Speaker: If leave is granted, yes, we would return to it later this day.

Senator Cools: My question is based on what happened yesterday. When I got leave to be able to move the adjournment on Senator Mobina Jaffer's motion, it turned out to be not so binding.

I just wish to check that it is, indeed, binding.

Senator Stratton: I will speak later this day.

The Hon. the Speaker: Honourable senators, I think in both cases the leave was applicable. There were other circumstances, as I recall, namely a vote on adjournment, and I appreciate Senator Cools' position on that.

The other thing to clarify, Senator Stratton, is when later this day would we return to this? Does the honourable senator have a time in mind? Would it be at the end of Commons Public Bills?

Senator Stratton: Before the adjournment is fine.

The Hon. the Speaker: Is it agreed, honourable senators, that we return to Bill S-9 immediately prior to the adjournment motion?

Hon. Senators: Agreed.

CRIMINAL CODE

BILL TO AMEND—THIRD READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Joyal, P.C., seconded by the Honourable Senator LaPierre, for the third reading of Bill C-250, to amend the Criminal Code (hate propaganda).—(*Honourable Senator Beaudoin*).

Hon. Gérald-A. Beaudoin: Honourable senators, I intend to speak to the legality of this bill, but my colleague must leave, and I would yield to him.

The Hon. the Speaker: Honourable senators, under the yielding provision, Senator Beaudoin would lose his right to speak, unless leave is given for him to speak later.

Is leave granted, honourable senators?

Hon. Senators: Agreed.

Hon. Gerry St. Germain: Honourable senators, I rise to speak to third reading of Bill C-250.

Honourable senators, Bill C-250 has been the subject of much debate from across this country. In my region, over the last two months in particular, the voice of Western Canadians has been very strong and clear — that is, they do not want this legislative amendment as presently worded added to our Criminal Code. The very fact that representatives from all major faith groups — Catholic, Islam, Judaism, Hinduism — in Canada have sounded the alarm over the hate crime bill should say something to you.

Honourable senators, most Canadians who practise their faith aggressively oppose Bill C-250. The only other time I can recall Canadians objecting so strenuously to something their Parliament was about to adopt was when the gun registry legislation was being debated. Why the government, and indeed the Senate itself, seems so determined to rush through this legislation and not provide Canadians the opportunity to be heard and their questions seriously considered is beyond belief.

When Bill C-250 was before this place in the last session, I spoke to the bill. I spoke to the concerns of the people in my region, and I spoke against it being hastily passed by Parliament. Honourable senators, I sought to have the committee fully charged with examining each and every concern raised by Canadians. I raised some of these questions at the recent committee hearings. I had asked for a definition of sexual orientation and what this really means. I would ask how the words “sexual orientation” make gays and lesbians an identifiable group and whether the words “sexual orientation” include other groups.

• (1630)

Honourable senators, our democracy was built based on Judeo-Christian values and the principles of law. In Canada, it seems that successive Liberal governments have sought nothing other than to secularize the faiths out of our democracy and laws. The fact that we had to include the amendment clause to protect our faith-practising communities gives real cause for concern. Every citizen across the land is fearful that their constitutional rights are being trampled upon, so much so that their freedom of expression and speech will be confined to being no more than the freedom of thought. What bothers most Canadians is that hate crimes are now being based on vague and undefined language.

Honourable senators, Canadians have been very clear with their concern over the bill, but one succinct account of the bill came to me from Carole Cole of Dundalk, Ontario, where she said the following:

The ground of “sexual orientation” does not satisfy the characteristics of the existing genus of the original identifiable groups. Colour, race and ethnic origin are characteristics which are generally both visible (henceforth the term “identifiable group”) and innate.

All Canadians should be protected equally by the law. This proposed amendment, however, not only creates a special category or privileged class of people, based on controversial forms of sexual behaviour, for which any crimes defined under the sections 318 and 319 will be considered hate crimes committed against a distinct class of people, but also flies in the face of freedom of speech, and freedom of religion as guaranteed under the Charter of Rights and Freedoms.

Although the current provision contains a defence for a bona fide religious speech, both the amendment for a “religious text,” which is arguably vague, and the existing defence are inadequate in that: 1) They do not extend to all offences; 2) the legislative history and the wording of the defence appear to limit its application to hate against religious groups; and 3) the courts have signalled that they would provide a narrow interpretation to the defence.

Furthermore, recent jurisprudence demonstrates that when there is a so-called “collision of dignities” between homosexual rights and religious rights, homosexual rights are the preference of the courts, and these will generally prevail.

Precedent recently established by court jurisprudence, such as the Owen and Harding cases, indicates that religious freedom could very well be jeopardised by this amendment, and it could therefore force the Judaeo-Christian majority of our population to become second class citizens, unable to speak their religious convictions or moral standards in the public square.

The defence would therefore be inadequate, particularly considering the provision’s potential applicability to speech within places of worship and places of religious instruction. Moreover the fact that hate has no statutory definition, but is a rather judicially malleable concept, combined with a relatively low standard of mens rea that is required to constitute the crime, will inevitably muffle otherwise valuable speech out of fear of prosecution, thus violating the individual’s or an institution’s Charter rights.

Canadians believe it is fundamentally inappropriate to pass legislation that can be used to intimidate, accuse or harass citizens intent on defending their rights to advocate moral or religious issues related thereto in the public square. Judaeo-Christian values are at times non-negotiable on moral issues.

Honourable senators, I pray that you move to defeat this potentially very divisive bill. It is not in the national interest of peace and good government, nor is it in the interest of secular, spiritual harmony.

MOTION IN AMENDMENT

Hon. Gerry St. Germain: Honourable senators, I move, seconded by Senator Stratton:

That Bill C-250 be not now read the third time but that it be amended, on page 1, in clause 1, by replacing lines 8 and 9 with the following:

“by colour, race, religion, ethnic origin or sex.”.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion in amendment?

I know Senator Beaudoin wishes to speak. When Senator Beaudoin yielded, my recollection is that leave was granted for him to speak later, even though he had yielded and our rules provided he would have lost his right to speak. Do I recall correctly, honourable senators?

Hon. Senators: Yes.

Hon. Gérard-A. Beaudoin: I thank my colleagues.

[Translation]

Senator Beaudoin: Honourable senators, Bill C-250 appears to be acceptable in strictly legal and constitutional terms. We will have a free vote; everyone will vote as he or she sees fit. We are living in difficult times. We have discussed the constitutional issue thoroughly in committee. I have carefully read the speech given in the Senate last Friday by my colleague, Senator Joyal, on the subject of Bill C-250.

I come to the conclusion that this bill respects the Constitution. The Supreme Court, I am certain, were it ever asked for an interpretation, would lean in that direction. The current body of precedent is clear, in my opinion.

I know that this is a controversial issue but we have no choice and, since there will be a free vote, of course, everyone can express his or her own opinion. We have examined the constitutional issue in committee with experts the past few days. I want to emphasize that; it is important. In *Vriend*, 1988, the Supreme Court found that the words “sexual orientation”, which are not in the Individual’s Rights Protection Act and which the Alberta legislators said they did not wish to include, should be read into the act. The Supreme Court ordered them added to the act, because of the principle of equality before the law, as stated in section 15 of the 1982 Canadian Charter of Rights and Freedoms.

The Supreme Court added that section 1 of the Charter did not justify the omission of the phrase “sexual orientation” from the Alberta law. There has been much talk in the newspapers about the three decisions on same-sex marriage.

A few months ago, the British Columbia Court of Appeal and the Ontario Court of Appeal handed down rulings on same-sex marriages. The Quebec Court of Appeal has just done so as well. These three appeal courts agree. According to all three courts, homosexuals have the right to marry.

There is a reference to the Supreme Court of Canada on the question of same-sex marriage and on the definition of the word “marriage.” It was scheduled for April 16, 2004, but has been delayed until October 2004.

• (1640)

The body of precedent suggests that, if Bill C-250 were before the Supreme Court, that court would conclude that the term “sexual orientation” is acceptable in law and that it can be added to the list of identifiable groups in section 318 of the Criminal Code — I am talking here in terms of constitutional law, not morals or other kinds of law. In my opinion, this might, therefore, refer indirectly to same-sex marriage, as interpreted by the Quebec Court of Appeal, the Court of Appeal for Ontario and the Court of Appeal of British Columbia in the definition of marriage. All the elements suggest that the Supreme Court would go in that direction.

However, we are waiting, and the matter has been held over until October, at which time both sides will present their case to the Supreme Court. By October, there is a strong possibility that the Prime Minister of Canada will have the filled two positions at the Supreme Court which will become vacant in June following the departures of Justice Louise Arbour and Justice Frank Iacobucci. In any event, the Supreme Court can sit with seven judges.

I am speaking only on the constitutional issue. We are all free to go in whatever direction we like. Some prefer to take a religious approach. There is a very clear section in Canada. Each religion can interpret this as it likes. Catholics, Protestants, followers of Islam and Judeo-Christians are all entitled to their religion, and this right is entrenched in the Constitution. There is consequently no doubt that the religious leaders each have the authority to follow the tenets of their religion.

In Canada, the courts have indicated that we are free to have no religion. This does not threaten the rights of religious groups. In my opinion, since all religions are equal, section 1 of the Charter could not restrict the application of clause 1, according to the courts that have already handed down rulings.

Let us be clear, with regard to religion, each of us is free to vote according to our conscience. But, from a constitutional point of view, I believe, rightly or wrongly, that the Supreme Court will agree with the principle of Bill C-250, because it is consistent with Charter equality rights.

[English]

Hon. David Tkachuk: Honourable senators, I rise to speak to Senator St. Germain’s amendment because, although his amendment improves the consistency of the Criminal Code in meeting the already established protection under the Charter, the Constitution, and the 1976 Human Rights Act, I should like to

[Senator St. Germain]

add that he did not go far enough. While ethnic origin is important, as Senator St. Germain so rightly pointed out, I believe that national origin is also of great importance and, personally, it would be difficult for me to decide which is of greater importance to me, my Ukrainian ethnicity or my own country of origin, Canada, in terms of any hate propaganda. They both speak to who I am. Hate propaganda directed at either should not be acceptable if we are to amend the Criminal Code on this matter.

MOTION IN SUBAMENDMENT

Hon. David Tkachuk: Honourable senators, I move, seconded by Senator Gustafson:

That the motion in amendment be amended, by adding, before the words "ethnic origin" the words "national or."

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I rise to speak in support of Bill C-250 at third reading. I recognize that we have two amendments before us, and I will also address those, and do so from the position I attempted to articulate in support of the bill when I spoke on the principle of the bill at second reading.

We are now at the stage where the substantive detail of the bill and the specific effect of the bill, which have been studied in committee, are now before us. I concur with my colleague, Senator Beaudoin, that, from a legal standpoint, the bill is perfectly legal and constitutional.

However, honourable senators, I should like to make at least four points, which I will place on the record at this time.

First, in my opinion, this bill is about the human rights of every human being. We are all members of the human community, and so hold any and all of those rights referred to as human rights. This is often referred to as the universality of the human rights idea. Overlooking universality is, of course, exactly what those who violate human rights do, whether those violators be repressive governments or others. They are quick to claim many things and protect themselves, but they fail to grasp or respect fully the twin commitment to universality and a form of equality inherent in the very human rights idea.

The first step on the road to systemic human rights violations is invariably to denigrate the person or persons targeted. The sad psychology seems always the same: Undermining the dignity and worth of the hated person or persons. This dislodges both conscience and sensitivity, which normally would prevent innocent people from being brutalized. Crude propaganda is sometimes used to cement such bizarre beliefs about the human dignity of those targeted.

Second, the Senate, being the second chamber of our bicameral Parliament, is part of the legislative branch in our Canadian system of governance. This raises for me the very idea that was inherent in Senator Beaudoin's intervention, namely, that if we

fail as legislators to act in this matter, then we ought not join with those who criticize our judiciary when it stakes out an active position in the matter of equality. I refer here to the principle of *ejusdem generis* in the interpretation of law, what some describe as analogous ground, given the fact that section 15 of the Charter of Rights and Freedoms guarantees that everyone is equal before and under the law and has equal benefit and protection of the law without discrimination and without discrimination on the basis of a number of specified grounds. As well, as Senator Beaudoin has pointed out for us, the Supreme Court, in *Vriend*, has used the *ejusdem generis* principle and said directly that sexual orientation is an analogous ground. Therefore, in *Vriend*, the court read into the Human Rights Act a ground of discrimination that was not placed there by the legislators — sexual orientation.

• (1650)

I believe it will be inevitable that, if called upon to do so, the courts in Canada will read into section 318 of the Criminal Code this analogous ground. Either we act as legislators or we had better not criticize the courts if they do what we do not do.

The Senate of Canada also has a special role to play in our system of enacting legislation in the area of keeping an eye out to ensure that minorities in Canada are protected. Very few groups that are victimized by hatred constitute the majority. It speaks for itself that the matter before us is very much a question of speaking for what some might describe, sadly, as a despised minority.

This is our job, honourable senators, if we have any job at all. Therefore, our analysis, I suggest, of this bill involves very much an assessment of the targeting which impacts on Canadians because of their sexual orientation.

Further, I give my assessment of the need for this addition of sexual orientation to the list of grounds contained in section 318 and applicable to section 319 of the Criminal Code. I call the attention of honourable senators to the annual reports published each year by the federal, provincial and territorial Human Rights Commissions. Those reports clearly demonstrate that discrimination against Canadians, against persons because of their sexual orientation, is not at all an abstraction but, sadly, a very real phenomenon. We have the numbers right there.

I believe the Human Rights Commissions do excellent work in the promotion of social justice in Canada. They should be encouraged in their work in this particular area, irrespective of the enactment of Bill C-250 and irrespective of those sections in question in the Criminal Code.

Why do I say that, honourable senators? I say that because of the limitation contained in this bill in section 318(3), namely:

No proceeding for an offence under this section shall be instituted without the consent of the Attorney General.

Much has been made of that provision to try to respond to those who fear its misuse.

Honourable senators, it was precisely because of this type of qualification that Criminal Code action was not taken against anti-Semitic school teacher Malcolm Ross in my province of New Brunswick. Rather, complaints had to be filed under the New Brunswick Human Rights Act, which did not require the approval of the Attorney General. A full court of nine judges in the Supreme Court of Canada unanimously upheld that proceeding.

Obviously, I would prefer not to have this qualification in the legislation, but I am prepared to accept it because I think the bill is fine the way it is.

I have examined the evidence gathered by the Senate committee that studied this bill. I have also carefully examined the mountains of material submitted by individual groups and churches, which all honourable senators have received.

Much of the argumentation is about questions that, in my assessment, do not relate to this bill at all. Some contain points of view allegedly based on religious and moral principles. I certainly accept the right of those who postulate such views to express the same; indeed, I will defend that right of religious conviction and freedom of expression.

However, I have great difficulty in understanding the theological basis of many of these positions. Indeed, I would argue that these positions are not a proper analysis theologically nor philosophically. In all faith communities one finds theologians who cogently argue that one must not discriminate nor demean persons because of their sexual orientation, but rather the commandment of love for all created in the *Imago Dei* must trump hatred.

Honourable senators, this bill proscribing hate propaganda is doing simply that. We are not dealing with anything other than proscription of propaganda and hate and the consequences that would flow from that — consequences which do not speak to nation-building.

Theologically, most faith communities believe that hatred is wrong. For example, in my own faith community in the Roman Catholic Catechism, we will find in article 2303:

Deliberate *hatred* is contrary to charity. Hatred of the neighbour is a sin when one deliberately wishes him evil. Hatred of the neighbour is a grave sin when one deliberately desires him grave harm.

I speak this way as a student of theology myself who has read a fair amount in the area. It is my conclusion that most theologians recognize that every human being, as I said, has inherent dignity given the nature, the source, the origin of our creation.

Finally, the catechism of my church provides also at article 2358 that persons who are homosexual:

...must be accepted with respect, compassion, and sensitivity. Every sign of unjust discrimination in their regard should be avoided.

[Senator Kinsella]

Hon. Lowell Murray: I wanted to ask the Deputy Leader of the Opposition whether he had addressed the amendments proposed by his colleagues Senator St. Germain and Senator Tkachuk. Does he have anything to say about those?

Senator Kinsella: Honourable senators, I think my position is perfectly clear. I find the bill as drafted “perfectly constitutional,” to use the words of my colleague Senator Beaudoin. It is satisfactory to me. The bill does not need to be amended. Furthermore, the debate across the country on this issue might very well turn out to have been quite salutary because it has forced us to examine where the line is drawn between religious approaches and religious tenets, freedom of religion, freedom of conscience on the one hand and interference with the rule of law.

• (1700)

In my judgment, that has been one of the healthy outcomes of the debate that we have had up to this point.

Senator Murray: I appreciate that point. On that last point, does the honourable senator agree with me that this bill, having already died twice on the Order Paper, ought now to be brought to a final vote and conclusion very soon?

Senator Kinsella: As this is the second day of debate at third reading stage of this bill, I would hope that we would allow for a fulsome debate and reach a judgment on it.

Hon. Joan Fraser: Honourable senators, I should like, very briefly, to place on the record why I plan to vote against the proposed amendment and subamendment. I believe this clause should include “sex” as one of the prohibited grounds, but I think it should be done separately. I cannot possibly support an amendment that deletes the reference to sexual orientation — that is what this bill is all about. It is about coming to the public, official, formal, solemn defence of an extremely vulnerable minority.

We have supported this bill at second reading and in committee. I personally support it strongly. I want it on the record that when — I hope before too long — this chamber, in a second bill, is asked to include sex as one of the grounds in this same portion of the Criminal Code, I will gladly support that.

Hon. Anne C. Cools: I should like to have some clarification, because I sense that Senator Fraser was speaking to two questions simultaneously. It is my understanding that, at this moment, the question before us is Senator Tkachuk’s subamendment and that we must dispose of that before we can move on to the other one.

Am I correct that Senator St. Germain’s amendment is, in fact, not before us at this time but that the question before us and to which we are currently speaking is Senator Tkachuk’s subamendment?

The Hon. the Speaker: I think that is a question for Senator Fraser.

Senator Fraser: I promised to be brief, so that is the only question that I will take, honourable senators.

It is my understanding, from listening to the debate, that we have been engaging in senatorial fashion in a rather wide-ranging debate on all the questions related to this legislation. It was in that spirit that I rose.

Senator Cools: My question may go to Senator Fraser, or to the sponsor of the bill, or to someone else. It is my understanding that the question currently before the Senate is Senator Tkachuk's subamendment.

Could I get that clarified?

The Hon. the Speaker: Senator Fraser is taking no more questions, and that is obviously the case, Senator Cools.

Some Hon. Senators: Question!

Senator Cools: I should like to speak in this debate, Your Honour, and I should like to make it clear that I wish to speak on Senator Tkachuk's amendment. According to my understanding of the rules, senators are allowed to speak on each question. Therefore, I am reserving my right to speak on the other questions as we move along. I am just trying to be crystal clear as to what I am speaking on.

Senator Tkachuk's amendment goes some ways, although not, to my mind, a long way, to meeting some of my concerns. Honourable senators, since I did not get an opportunity to speak at second reading of this bill a few weeks ago, I shall have to rely on what I said at second reading in the previous session of Parliament.

Honourable senators will remember that, at that time, I raised a concern about the inclusion of the term "sexual orientation" in what is called the genocide section of the Criminal Code. I did so because it was my clear understanding that section 318 of the Criminal Code, as it was designed, addressed immutable characteristics, including race and colour, et cetera.

Mr. Robinson told us that religion is not immutable. However, at the time these sections of the Criminal Code were created, religion was inherently connected and tied to race. In other words, most members of the Jewish race were members of the Hebrew religion, and most Arab people were members of the Muslim faith, so there was an inherent connection.

Senator Tkachuk's amendment goes some way to meeting some of those concerns, but I am still concerned about the phenomenon of including these terms in that section of the Criminal Code. To my mind, everyone should be protected, not only identifiable groups — whatever that may mean. That is another problem I have; I am not sure how to identify "sexual orientation."

I take my lead on some of this from Mr. Svend Robinson. When he appeared before us in committee, he told us very clearly that Bill C-250, in point of fact, was not necessary and that the existing provisions of the Criminal Code were satisfactory for the job of proceeding with prosecutions in the instances where any crimes were committed.

On March 10, 2004, when appearing before the Standing Senate Committee on Legal and Constitutional Affairs, Mr. Robinson said the following:

This bill is largely symbolic; I would be the first person to concede that. There will not be a lot of prosecutions under this legislation. Yet the symbolism is enormously important because it says to gay and lesbian people that our lives and our safety and our security are just as important.

Honourable senators, I do not know anyone in this chamber who does not believe that the lives of all Canadians, all human beings, are especially important. I do not know anyone who believes that the life of any homosexual person is not important.

That was also confirmed at a March 11, 2004, meeting of the Standing Senate Committee on Legal and Constitutional Affairs. At that time, Mr. Jones from the Vancouver police appeared before us. I took the trouble to ask Mr. Jones whether these provisions were needed by the police force. He responded in essentially the same way. He said:

The power of this legislation is in the message it sends to Canadians about those things that we hold most dear — and that is the protection of those disadvantaged or minority groups or marginalized groups.

Honourable senators, the Criminal Code is a mighty instrument. Historically it has been the thought, when creating criminal law, that one does not use it as a social tool, a teaching tool or a public relations tool. The danger with using the Criminal Code is that when you create a power of prosecution, there is always a temptation and possibility that that power will be abused. As William Lyon Mackenzie — the grandfather of King — once said, there is a natural disposition among humans in positions of power to abuse power and to quickly substitute their own interests for the public interest. I put that comment forward.

• (1710)

Honourable senators, in the famous *Keegstra* case, which is one of five prosecutions under these sections, Madam Justice Beverley McLachlin essentially dissented, as did Justice Sopinka. She described freedom of expression in the Charter as the right to let "loose one's ideas on the world." She referred to the "chilling effect" of the exercise of this freedom of expression by law-abiding citizens because of the subjective concept of hate. In her opinion, criminal sanctions do not operate as a deterrent to hate mongers, while they chill the free expression of the ideas of ordinary individuals who, by fear of criminal prosecution and because of inherent vagueness of the provision, will refrain from exercising their freedom of expression.

She went on to Criminal Code section 319 imposes limits on freedom of expression in relation to the search for truth, vigorous and open practical debate, and the value of self-individualization. She also stated that, in her opinion, and mine as well, the hate propaganda provision raises serious questions as to whether it furthers the principles and values of social peace, individual dignity, multiculturalism and equality.

Honourable senators, millions of Canadians in this country are concerned that by criminalizing speech — this is what this bill does — they will be subject to vexatious, menacing and malicious prosecution. For that reason, Bill C-250 is pernicious and unprecedented. It is a direct attack on Canadians who hold strong moral views, religious and non-religious, about human sexuality, the human anatomy, the human body and the design, purpose and function of the human body. They hold strong moral views about sexual practices, such as sodomy, rimming, sado-masochism, swinging and so on.

Honourable senators, not content with equality before the law, Bill C-250 seeks by coercion to establish domination over those who disagree and to subject those who disagree to the oppression and the weight of the Criminal Code.

Bill C-250 will subject many Canadians — make no mistake — to criminal prosecution. In addition to ordinary people, this bill would also expose professionals — such as nurses, doctors and teachers — to prosecution if they make condemnatory statements about dangerous human sexuality practices such as, for example, fisting, rimming, sodomy and sado-masochism.

Honourable senators, my concerns are not ill-founded. For that, I would like to go to the views that were expressed in a case called the *Little Sisters* case. It is very interesting. Little Sisters is a homosexual bookstore in British Columbia. I would like to quote the Supreme Court of Canada 2000 judgment in *Little Sisters Book and Art Emporium v. Canada (Minister of Justice)*. I cite Mr. Justice Binnie, who is citing the appellant supported by LEAF. He said the following:

The appellants, supported by the interveners LEAF and EGALÉ, contend that homosexual erotica plays an important role in providing a positive self-image to gays and lesbians...

This is very interesting. Then he continues. He is speaking for other people, by the way. He is repeating other people's factums.

Gays and lesbians are defined by their sexuality and are therefore disproportionately vulnerable to sexual censorship.

I disagree with that. I do not believe that anyone is or should be defined by their sexuality.

He continued:

The intervener LEAF took the position that sado-masochism performs an emancipatory role in gay and lesbian culture and should therefore be judged by a different standard from that applicable to heterosexual culture.

These are the statements from the appellant's factum. Clearly, people who will take a different view from this will find themselves subjected to some sort of prosecutorial mischief. One can be absolutely certain.

[Senator Cools]

Honourable senators, I would like to respond to one or two points that have been raised in this debate. Many people are concerned about questions such as paraphilia, pedophilia being one. I would like to call the attention of honourable senators to the fact that, for example, on May 19, 2003, there was a paper presented by Dr. Charles Moser and Dr. Peggy Kleinplatz. They argued in that paper before the American Psychiatric Association that paraphilias should be withdrawn from the Diagnostic and Statistical Manual, the DSM.

Honourable senators would know what the paraphilias are, but they certainly do include pedophilia. The concern of many that I speak to is that somehow or the other pedophilia will one day be seeking some sort of legal protection.

Honourable senators, I would like to read from a document called the *Journal of Homosexuality*. I am speaking from the journal, volume 20, which was published in 1990. This journal is dedicated exclusively and totally to what is pedophilia and is entitled "Male Intergenerational Intimacy: Historical Social-Psychological and Legal Perspectives." I would like to go to one particular article in it called "Man-Boy Relationships: Different Concepts for a Diversity of Phenomena," written by Dr. Theo Sandfort and two other.

If one were to look at page 11 of this publication, published by the Haworth Press in New York, one would find the following statement:

It is difficult to predict what will happen in the future with respect to man-boy relationships, child sexuality, the position of children in our society. Will pedophilia become a lifestyle for some people, based on their personally designed sexual orientation? Will society allow people to adopt such a lifestyle, or will society persist in seeing them only as child molesters? Can sexual involvement between adults and children be only conceived as child sexual abuse, or will the professionals and the public come to realize that there are various kinds of intimate involvement between adults and children and that distinctions between voluntary involvement and forced involvement can be made...

The Hon. the Speaker: Senator Cools, I regret to advise that your 15 minutes have expired.

Senator Cools: I was just finishing off.

The Hon. the Speaker: Are you asking for leave for additional time?

An Hon. Senator: No.

Senator Cools: I did not have to ask.

The Hon. the Speaker: Is leave granted?

Some Hon. Senators: No.

The Hon. the Speaker: Leave is not granted.

• (1720)

Are honourable senators ready for the question on Senator Tkachuk's motion in subamendment?

Some Hon. Senators: Question!

The Hon. the Speaker: I take it we are ready for the question.

Senator Cools, do you have a point of order?

Senator Cools: I have a point for clarification. In the recent weeks, many votes have been held because His Honour has been responding to some senators calling out "Question!" For example, that happened some weeks ago, and I was denied the opportunity to speak at second reading.

I think a better way to proceed is for His Honour, before he calls the question, to ensure that no other senator wishes to speak.

Senator Robichaud: That is what he does all the time.

The Hon. the Speaker: That is good advice, Senator Cools. I see no senator rising, however, which would be my signal that a senator wished to speak.

Senator Cools: I was on my feet at that time.

The Hon. the Speaker: I would now ask honourable senators if they are ready for the question to ensure that they know that we are to proceed.

Some Hon. Senators: Question!

The Hon. the Speaker: I will put the question. It was moved by the Honourable Senator Tkachuk, seconded by the Honourable Senator Gustafson:

That the motion in amendment be amended by adding before the words "ethnic origin" the words "national or."

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: No.

The Hon. the Speaker: Those in favour of the motion in subamendment will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: Those opposed to the motion in subamendment will please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: I believe the "nays" have it.

And two senators having risen:

Hon. Terry Stratton: In accordance with rule 67(1), I should like to defer the vote until the next sitting of the Senate at 5:30 p.m.

Hon. Lowell Murray: Perhaps we can have a decision now to debate the amendment moved by Senator St. Germain, or must that await the vote?

The Hon. the Speaker: Whether or not the amendment passes is an important consideration in the debate.

[Earlier]

Honourable senators, I have an important matter to which I am advised I must give priority.

[Translation]

ROYAL ASSENT

The Hon. the Speaker informed the Senate that the following communication had been received.

RIDEAU HALL

April 1, 2004

Mr. Speaker,

I have the honour to inform you that the Honourable Marie Deschamps, Puisne Judge of the Supreme Court of Canada, in her capacity as Deputy of the Governor General, signified royal assent by written declaration to the bills listed in the Schedule to this letter on the 1st day of April, 2004, at 4:48 p.m.

Yours sincerely,

Johanne MacKenzie for Barbara Uteck
Secretary to the Governor General

The Honourable
The Speaker of the Senate
Ottawa

Bills Assented to Thursday, April 1, 2004

An Act respecting the registration of information relating to sex offenders, to amend the Criminal Code and to make consequential amendments to other Acts (*Bill C-16, Chapter 10, 2004*)

An Act to amend the Act of incorporation of Queen's Theological College (*Bill S-15*)

[English]

COMPETITION ACT

BILL TO AMEND—SECOND READING

Hon. Anne C. Cools moved the second reading of Bill C-249, to amend the Competition Act.—(*Honourable Senator Rompkey, P.C.*)

She said: Honourable senators, I propose to speak for only a few minutes on Bill C-249, the sponsor of which was The Honourable Mr. Danny McTeague in the House of Commons. Bill C-249 has languished in this chamber for quite some time, and I have been prevailed upon to say a few words.

Bill C-249 will amend the Competition Act. Honourable senators will recall it was introduced in the other place some years ago and was there passed by a majority of 175 to 29 votes.

This bill was before us in the previous session of Parliament and was referred to the Standing Senate Committee on Banking, Trade and Commerce, where it was when Parliament prorogued last November.

Honourable senators, the purpose of this bill is to clarify the efficiency defence clauses found in the merger review provisions of the Competition Act. This bill will bring Canada's review of mergers more in harmony and in line with the practice followed in Europe and the United States.

The current Competition Act provides in section 96(1) that a merger should not be disallowed if the Competition Tribunal finds that the merger "...has brought about or is likely to bring about gains in efficiency that will be greater than, and offset, the effects of any prevention or lessening of competition..." This provision recognizes that mergers can lead to great efficiencies, and I support the need to include this in the new review section on mergers.

The provision, however, has been interpreted by the Competition Tribunal to mean that the efficiencies defence could be used to allow a merger that substantially raises prices and reduces choices as well as the quality of products.

It is also been interpreted to allow the creation of a monopoly situation which, in my view, is inconsistent with the purpose of the Competition Act.

Honourable senators, as I said before, this bill went to the Standing Senate Committee on Banking, Trade and Commerce and rested there because of prorogation.

I should like to put on the record something that is a bit of a curiosity. It is very interesting that Parliament prorogued on November 12, but that on November 13, the Chairman of the Standing Senate Committee on Banking, Trade and Commerce, Senator Richard Kroft, wrote to then Minister Allan Rock to lay out his concerns about the bill. I should like to put a few passages on the record from Senator Kroft's letter.

It is dated November 13, the day after prorogation, so the bill was dead.

The letter reads as follows:

Dear Mr. Rock.

As you may be aware, Bill C-249, An Act to Amend the *Competition Act*, was referred to the Standing Senate Committee on Banking, Trade and Commerce on September 17, 2003...

I have only read that one line from that paragraph. It continues as follows:

As a result of other matters before the Senate Banking Committee, we began consideration of this bill on

November 5, 2003 with witnesses from the Competition Bureau, including the Acting Commissioner of Competition, and continued on Thursday, November 6, 2003 with witnesses including the Canadian Bar Association, two individuals from the law firm Blake, Cassels & Graydon LLP in Toronto, and Dr. Peter G.C. Townley.

Senator Kroft's letter continues:

As a result of hearing from these witnesses, the committee is not convinced that it can proceed to report on this bill at this time.

• (1730)

It continues:

The discussion paper prepared by the Commissioner of Competition on June 23, 2003 entitled, "Options for Amending the *Competition Act*: Fostering a Competitive Marketplace" has been drawn to the attention of the committee. We understand that this discussion paper was prepared at the culmination of two years of debate, discussion, and commentary and that the Competition Bureau continues to conduct roundtables and consultations. The Senate Banking Committee has not received any information to indicate why such a consultation process has not been conducted with respect to the amendments proposed in Bill C-249 or why the amendments proposed in this bill have not formed part of the ongoing consultations. It is our opinion at this point, that such consultations may be appropriate prior to our committee continuing further consideration of this bill.

There are various witnesses who have indicated their interest to appear before our committee on this matter and there have been indications by members of the committee with respect to other witnesses that they may wish to hear from, including Mr. McTeague. However, prior to our committee undertaking such further hearings, which may be duplicative should your department determine that public consultations are appropriate with respect to this matter, we would request your response to the matters raised in this letter.

I look forward to hearing from you and am available to discuss these matters should you have any concerns.

Yours truly,
Richard H. Kroft, C.M.
Chairman, Standing Senate Committee
on Banking, Trade and Commerce

Honourable senators, in this letter, Senator Kroft was obviously saying that the committee is not prepared to proceed with the bill because the committee believes that further consultations in respect of certain issues and questions should be continued.

Some days later, the then minister, Mr. Rock, responded to Senator Kroft, in the following words:

Dear Senator Kroft:

Thank you for your letter of November 13, 2003, in which you expressed your concerns regarding the amount of consultation that has taken place with respect to Bill C-249, which was then before the Standing Senate Committee on Banking, Trade and Commerce (Senate Committee).

As you know, Bill C-249 is a private member's bill. As such, Bill C-249 was not subject to public consultation by the government before it was first tabled in the House of Commons in October 2000. It was debated at second reading and was eventually referred to the House of Commons Standing Committee on Industry, Science and Technology on February 25, 2002.

Essentially, from there on, the minister continues to set out what I would describe as some of the background to the movement of the bill. He continues:

On April 23, 2002, the House Committee issued its report on the matter, entitled *A Plan to Modernize Canada's Competition Regime*. Recommendation 28 of the report relates to the treatment of efficiencies and states:

"The Government of Canada should establish an independent task force of experts to study the role that efficiencies should play in all civilly reviewable sections of the Competition Act, and that the report of the task force should be submitted to a parliamentary committee for further study within six months of the tabling of this report."

In light of ongoing litigation in the Superior Propane case and the House Committee's ongoing review of C-249, the government opted to commission a study on the treatment of efficiencies in merger review internationally and submit the findings of this benchmarking exercise to a parliamentary committee. This study, entitled *The Treatment of Efficiencies in Merger Review: An International Comparison*, was submitted to the House of Commons in February 2003.

The House Committee subsequently held hearings on Bill C-249 between March 31 and April 9, 2003, where it received testimony from eight individuals or organizations. The House Committee adopted Bill C-249 and referred it back to the House where it received wide support. As you are aware, Bill C-249 was first read in the Senate in May 2003 and it was referred to the Senate Committee on September 17, 2003.

Efficiencies have been debated extensively over the last decade, especially since the Competition Bureau challenged the merger between Superior Propane and ICG Propane before the Competition Tribunal in 1999. The role of efficiencies in merger review, which lies at the heart of

Bill C-249, has been the subject of many different presentations during conferences on competition law and policy, and different views were elaborated in numerous articles on the subject. I refer to the testimony before the House Committee of Mr. Robert Russell, lawyer for Borden Ladner Gervais —

That is the old Scott & Aylen law firm.

— who stated:

"There is no single topic in competition policy that has had greater debate in our system of law than the efficiencies defence...There's been nothing more widely written on, spoken on, published in Canada and reflected upon in other jurisdictions..."

As well, the lengthy process of Bill C-249 through the House provided commentators with ample time to express their views on the matter. Consequently, I am satisfied that Bill C-249 was the subject of sufficient consultation and I, along with most of the House of Commons, supported it.

Turning to the question of why the amendments proposed in Bill C-249 have not formed part of the consultation process associated with the June 23, 2003 Discussion Paper entitled *Options for Amending the Competition Act: Fostering a Competitive Marketplace*, I must point to significant differences between the nature of the Discussion Paper's proposals and Bill C-249.

In any event, Mr. Rock, then Minister Rock, continued laying out the entire background of these discussion papers and the consultative processes that have been engaged in. He then moves to a conclusion, in which he says:

In light of the above —

This is Mr. Rock's closing paragraph in his letter to Senator Kroft.

— Industry Canada does not intend to initiate specific consultations on Bill C-249 per se, as this Bill has already been passed by the House of Commons. Nevertheless, I hope that the Senate Committee will be given the opportunity to continue its review of this important Bill if it is again referred to the Senate Committee once Parliament resumes and that the Senate Committee will recognize the extensive discussions that have already taken place regarding the treatment of efficiencies. In this context, I trust this information is helpful in the Committee's decision to conduct further hearings on the matter.

Yours very truly,
Allan Rock

Honourable senators, what we have is a situation where, in between the two sessions of Parliament, Senator Kroft wrote a letter to the minister saying that the committee could not continue further study of the bill because the bill needed more study by the minister, and the minister wrote back saying that in his view he had no intentions of studying it any more, and his department and everyone else has given the bill ample study.

I just wanted to place that on the record.

Honourable senators, I work on many, many matters, but the Competition Act is not one of them. However, I do understand very significantly the issues Mr. McTeague at that time was trying to advance in the bill.

I should like to say that I think they are worthy causes and worthy issues. Even though they are not my issues, I consented to do this little task, rather than to let the bill languish and die off, on the ground that I thought that the bill was significant enough to merit proper consideration. I truly do not understand why the bill has languished and has not been taken up for serious study, especially when the bill had the full support of the minister at the time.

I must say, honourable senators, I have been a bit miffed, if not bewildered, that so many Liberal senators have been rushing to try to get Bill C-250 — an NDPer's bill — into debate and voted upon while, simultaneously, one of our own colleague's bills — Dan McTeague's — has been allowed to languish, almost die, without my intervention today at least to move it along.

As honourable senators can see, the Order Paper has been "ticking." The bill itself is at day 14, needing some activation.

• (1740)

Honourable senators, the hour is late. We are not only late in the hour of the day, but we are also late in the hour of the session. Even though the session is a new session, many Liberals, at least, are expecting that we will go into election mode. Liberals have expected that since last November, which is not unusual at all.

Honourable senators, for the record, for the sake of dialogue, for the sake of debate, and for the sake of assisting a House of Commons colleague to move his concern forward, I highly commend this bill to you for your support and recommendation. I regret that it has not moved to date. I sincerely regret that the Senate Banking Committee did not take the opportunity to take this bill unto itself and to give it the study and the consideration that it deserves. As we know, there are many able and capable ladies and gentlemen on the Banking Committee. It is well-known, for example, that the committee has had among its membership some of the most distinguished gentlemen in the country. Some of these names are disappearing into history, like Senator Hayden and Senator Buckwold and others, many of whom I had the privilege to know.

Honourable senators, to make a long story a little bit shorter, this bill is trying to close a lacunae or a gap in the Competition Act by essentially combining the sections in respect of the review of mergers so that the question of efficiencies will be considered in concert with all the other issues that should be considered when mergers are taking place.

This measure also previously enjoyed the support of the Competition Bureau. It is interesting that the minister and the Competition Bureau itself supported this bill. They have some magical rule in the House of Commons where bills can be

reinstated without reintroduction, and they maintain even the same bill number, so it is a questionable constitutional oddity that they have working over there. However, they are doing it, and nobody here will question it. I suppose that if one does not question it, that means it is good and proper and in order.

In any event, I commend the bill to the consideration of colleagues, and I commend it to the study of our Standing Senate Committee on Banking, Trade and Commerce — very able gentlemen and ladies, for all of whom I have deep respect.

Hon. Jack Austin (Leader of the Government): Honourable senators, as we well know, a private member's bill sponsored and originating in the other place comes to us and requires a sponsor here. I am delighted that Senator Cools has acted as the sponsor of this bill, and I know that the member who sponsored in the other place, Mr. McTeague, will be delighted also.

This is not a government matter, obviously. Not speaking for the government but speaking as a member of this chamber, I would welcome the bill being sent to the Standing Senate Committee on Banking, Trade and Commerce.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, on behalf of the opposition, I have no difficulty with the general principle of the bill. I would commend our colleagues on the Standing Senate Committee on Banking, Trade and Commerce to do a very careful analysis of the bill. With that, I would support second reading.

The Hon. the Speaker pro tempore: Are honourable senators ready for the question?

Hon. Senators: Question!

The Hon. the Speaker pro tempore: It was moved by the Honourable Senator Cools, seconded by the Honourable Senator Day, that this bill be read the second time. Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker pro tempore: Honourable senators, when shall this bill be read the third time?

On motion of Senator Cools, bill referred to the Standing Senate Committee on Banking, Trade and Commerce.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SIXTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the sixth report of the Standing Committee on Internal Economy, Budgets and Administration (document entitled Senate Administrative Rules) tabled in the Senate on March 31, 2004.—(Honourable Senator Bacon).

Hon. Lise Bacon moved the adoption of the report.

She said: Honourable senators, I have the pleasure of introducing the Senate Administrative Rules, which were prepared under the direction of the Standing Committee on Internal Committee, Budgets and Administration.

The proposed administrative rules have been studied by a working group created by the committee on November 5, 2003, chaired by Senator George Furey, with Senator Stratton and Senator Jaffer as members. The Clerk of the Senate and the Law Clerk and Parliamentary Counsel collaborated closely with the working group. I greatly appreciate the efforts of the senators in the working group, and I thank them for the contribution in further advancing good governance in the Senate.

The main purpose of the project was to gather and codify into a cohesive, comprehensive and publicly accessible record the fundamental principles and rules governing the internal administration of the Senate and its allocation and use of resources.

A few years ago, in 1992, the Standing Committee on Internal Economy, Budgets and Administration considered the possibility of making regulations but decided at that time not to pursue the option. Over the years, there were discussions regarding the necessity and opportunity of adopting regulations or rules for the Senate. Your committee has now been persuaded, by convincing arguments, to adopt administrative rules.

[Translation]

Adopting such a document will improve transparency, responsibility for better informing all those affected by the administrative rules. It will also help the Senate administration continue to improve its services.

For the general public, it will instil greater confidence in the good governance of our institution.

[English]

This codification will improve certainty and transparency concerning the applicable principles and rules by recommending them. This improved access to those principles for all persons, including senators, staff and the public, will strengthen the Senate's accountability.

[Translation]

Finally, as stated in Appendix A, a few helpful changes resulting from the adoption of the Senate Administrative Rules, including new wording for your committee's mandate, have been made to the *Rules of the Senate*.

[English]

I recommend the adoption of our sixth report.

Hon. Norman K. Atkins: Honourable senators, I congratulate Senator Furey and Senator Bacon for the development of this document. I respect the goals that we are trying to achieve in

coming up with something that is more transparent and reflects what the administration has, in effect, been doing for a period of time. However, I would request that we have more time to study this document. In my own case, I first saw it on Tuesday. I was away last week when it was distributed and, frankly, since Tuesday I have not had an opportunity to look at it. With your concurrence, I would request that we have a little more time to deal with this.

• (1750)

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I endorse Senator Atkins' suggestion. In the meantime, could someone prepare explanatory notes and highlight any major changes. It is difficult to find answers to questions in the book itself. For instance, the mandate of the Standing Committee on Internal Economy, Budgets and Administration has been changed and the appendix has been lifted from the rules. The rule requiring the clerk to deposit financial statements has changed. Perhaps all of this has been reproduced in the document but, like Senator Atkins, I have not had an opportunity to look at it as thoroughly as I should.

Senator Bacon: I agree that, if senators feel they require more time to read the document, they should have it. However, I would point out that at the committee stage we had at least five days as well as the two days of this week to read the document and to work on it.

I would ask Senator Furey to respond to the questions.

Hon George J. Furey: Honourable senators, Senator Lynch-Staunton's point is well-taken, as is the point of our good friend across the way, Senator Atkins.

A number of details have been changed, and those could easily be highlighted so as to make it easier for colleagues to consider those changes and to question them, if need be.

For example, rule 133 has been removed from the *Rules of the Senate* because it seemed to be an administrative rule, so it has been included in the administrative section. That change could be highlighted with an explanatory note attached. If colleagues have questions to follow up on that, I would be more than happy to deal with them. The senator's point is well taken. We will do that before the next sitting.

On motion of Senator Atkins, debate adjourned.

RECOGNITION OF WRONGS DONE TO ACADIAN PEOPLE

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Comeau calling the attention of the Senate to the *House of Commons Debates* of February 11, 2004; specifically the concerns caused by Bloc Québécois Stéphane Bergeron's Motion M-382 in which he is seeking:

That a humble Address be presented to Her Excellency praying that, following the steps already taken by the Société nationale de l'Acadie, she will intercede with Her Majesty to cause the British Crown to recognize officially the wrongs done to the Acadian people in its name between 1755 and 1763.—(*Honourable Senator Losier-Cool*).

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, my understanding is that Senator Losier-Cool had concluded her comments on this item. I was going to intervene, but I will stand aside if my understanding is incorrect.

Hon. Rose-Marie Losier-Cool: Honourable senators, the motion is in my name, but I will allow the Honourable Senator Kinsella to speak. The motion to which we are referring from the House of Commons debate has been defeated, so I do not intend to speak.

Senator Kinsella: I will take a few moments to place a few comments on the record.

[*Translation*]

Honourable senators, I am taking the opportunity today to comment on the inquiry by my colleague, Senator Comeau, regarding the motion by Bloc MP Stéphane Bergeron, in which he asks the British Crown to recognize the wrongs done to the Acadian people between 1755 and 1763. My seat in the Senate gives me an interesting vantage point from which to follow the debate.

I will limit my observations to Mr. Bergeron's campaign because Senator Comeau's speech addresses the validity of the motion.

[*English*]

I used the word "campaign," honourable senators, because any serious initiative of this type would normally rely on proven campaign techniques. From my experience in many campaigns over the years, the key elements of the campaign should include the objective, attempts to arouse public interest and support, an organized course of action and a timetable.

A campaign should also take into account the field of action where the engagement is played out. Strategies and various tactics are no doubt planned in the privacy of various party caucuses, but historically they have not been played out in public on the floor of the House of Commons. This is a harsh, unforgiving arena, where prisoners are rarely accorded Geneva rules of protection. This is not to propagate negative stereotypical aspersions on members of the other place. Quite the contrary, the members of the House of Commons on all sides of the House perform a democratically vital role in our accountable and responsible system of government.

All institutions have their own particular traditions, value systems and ways of doing things. This is true of universities, organized religions, military and others. Government institutions are no exception. The mission, role, rules and membership

admittance, among other factors, create the unique characteristics of an institution. Even the House of Commons and the Senate work very differently.

Some might assume that a recognition that it was wrong to deport the Acadians is a straightforward initiative and that the party affiliation and the nationalistic persuasions of the mover should be irrelevant. The reality is that the Commons is an adversarial chamber and a partisan atmosphere is a matter of daily life. Federalist members are constantly reminded of the reality of the Bloc Québécois as a separatist party with a stated mission to separate the province of Quebec from Canada. Federalist members serve on the front lines. There can be little doubt that patriotism is a factor. It is therefore logical that federalist suspicions of Bergeron's motives would be aroused. Most Bloc initiatives are passed through this filter of doubt.

There is a saying that where you stand depends on where you sit. This is particularly true in the House of Commons. In fairness, the Bloc Québécois is quite candid in promoting the sentiment that the Canadian federation is detrimental to francophones in general and to Quebec francophones in particular. It is therefore the duty of Bloc members to demonstrate by various means that separation from Canada is the only viable option.

Most would agree that the Bloc Québécois would be justified to mistrust favourable interventions by federalist members with regard to the separatist aspirations. Likewise, it is understandable that federalist members have cause to question Bloc intentions. This motion is no exception. Federalist members may well suspect this motion as a means to provoke inappropriate comments from uninformed members. This was well illustrated in Senator Comeau's comments.

It would not be lost on federalist members that the lack of preparation suggests that the aim was for the Commons to vote against the resolution. The Bloc would then accuse English Canadians of being against Acadians because they are francophones. A successful resolution would make the Bloc the champions of Acadians and the federalist members would be blamed if the resolution failed. Regardless of the outcome, the fact that the Bloc stands to win either way must surely provoke federalist members.

The fact that Mr. Bergeron has successfully contested three federal elections suggests that he is familiar with the elements of the campaign. He is no novice in the political arena. He should therefore be very familiar, as are most successful elected parliamentarians, of the need for meticulous preparation prior to ever tabling a motion if it is hoped to pass. The lack of preparation is therefore revealing.

Honourable senators, it has been suggested that politics is the art of the possible, but achieving the possible requires effort, time and compromise. There are no short cuts in the passage of parliamentary resolutions. As a seasoned campaigner, Mr. Bergeron would understand the need to prepare a detailed plan of action. Developing such a plan is long, difficult and daunting — more so when in opposition. The plan would cover a

multitude of responses to unforeseen contingencies. He would understand that stakeholder support must come from many quarters and be great in number. He would need to seek, recruit, motivate and maintain a nationwide network of loyal supporters to the cause to bring pressure on many parliamentarians to support the Acadian cause. It would be essential that the plan be inclusive and adaptable to compromise and to arrive at an ultimately successful conclusion.

• (1800)

All this work must be done prior to ever tabling the motion. This large amount of work requires a genuine believer because the sponsor quite often becomes lost in the scramble as support for the objective takes on a life of its own.

Honourable senators, lack of preparation is a recipe for failure in a legislative body, but other factors further compounded this particular initiative. His separatist persuasions might have been mitigated with prior preparation and consultation with other parliamentarians of different persuasions. However, this was not done. Additionally, the story that Bergeron had recently discovered his Acadian roots did little to enhance his credentials. Bloc comments on the motion demonstrated an offending lack of understanding of the Acadian psyche.

[Translation]

— wounds must be healed to enable people to live in the present, work for the future —

The Hon. the Speaker *pro tempore*: Honourable senators, it is now 6 p.m.

Senator Rompkey: Your honour, I believe you would find consent not to see the clock.

The Hon. the Speaker *pro tempore*: Honourable senators, is there agreement not to see the clock?

Hon. Senators: Agreed.

[English]

Senator Kinsella: Honourable senators, parliamentary and media comments from the majority side of the House of Commons suggested that the motion would be defeated.

[Translation]

Minister Stéphane Dion, said that:

This motion cannot come from a separatist party. It must come from Acadian society.

[English]

An ardent sponsor advancing the interests of Acadians would make a crucial and credible assessment of the prospects of passage prior to tabling. He would have carefully reflected on the implications and impact of a rejection vote. Does a rejection

not imply that the House of Commons agreed that the British had cause to deport the Acadians? A genuine believer would be reluctant to table a high-stakes motion that had a high likelihood of failure.

There is no evidence to suggest that any preliminary work was done prior to tabling. I know of no Acadian group that was approached on the subject. The National Society of Acadians, NSA, was certainly not consulted. In fact, the NSA was initially and justifiably exasperated when it was not consulted. The NSA asked Bergeron to withdraw the motion so that l'Acadie could study the question. Bergeron refused.

The process was set in motion with the tabling of the resolution. The vote was fast approaching and no work had been done to ensure passage. Acadian groups felt compelled to scramble to mount an emergency campaign to seek support for the motion. This was done on Bergeron's timetable and terms rather than on the NSA's own agenda. It is understandable that Acadians would not want a federal vote on the books that essentially suggested that the British were not wrong in deporting the Acadians.

[Translation]

I will close, honourable senators, by stating that it is relatively easy to move a single-paragraph motion. And sometimes this generates a strong media response that places the movers of the motion in a good light, as it did in this case.

Mr. Bergeron did not lead any campaign. He set a process in motion and let events take their course. He could have discussed these plans with the Acadians on Parliament Hill and I am sure most would have given him wise advice. There are other more prudent ways of gaining recognition of harm done. He could have taken a less risky approach in this process, which must be gradual. He did none of that. It was almost guaranteed that the motion would be defeated, and that defeat is now part of the record of the other place. One can therefore wonder whether adoption of the motion was the real objective.

On motion of Senator Corbin, debate adjourned.

[English]

ADVANCEMENT OF VISIBLE MINORITIES IN PUBLIC SERVICE

INQUIRY—DEBATE ADJOURNED

Hon. Donald H. Oliver rose pursuant to notice of March 30, 2004:

That he will call the attention of the Senate to the barriers facing the advancement of visible minorities in the public service of Canada.

He said: Honourable senators, I rise to speak to the increasingly alarming crisis in Canada's public service. This crisis arises from barriers to the advancement of Canadians of colour in the public service of Canada.

Because of this systemic racism, the progress of visible minorities in making a substantive and valuable contribution to Canada's public service has come to a virtual standstill. There is no upward mobility and, more important, there is no inclination on the part of the government, the Governor in Council or the Prime Minister to do anything about it. The Speech from the Throne is silent about visible minorities. The recent budget of the Martin government was also mute. What is more, the latest annual report to Parliament on employment equity in the federal public service underscores the deplorable lack of policies and programs to address the advancements of visible minorities in the public service.

Many years ago, John G. Diefenbaker, in ruminating about Canada's multi-cultural character, said that Canada was not like a mosaic — "a static thing where each element is separated and divided." He did not believe the melting-pot concept was an appropriate analogy either. Rather, he believed that Canada was like "a garden into which have been transplanted the hardiest and brightest of flowers from many lands, each retaining in its own environment the best of qualities for which it was loved and prized in its native land."

It is clear to me that Canada's multicultural garden is a mess — choked with weeds, parched by a lack of water and ruined through sheer neglect. It is time to shed some sunlight on the issues, to dig deep down to the roots of the problem and to seed the development of new programs and policies that will bear fruit for many productive harvests to come.

Today, I shall explain, first, why an inquiry into the barriers facing visible minorities in the public service of Canada is urgently needed; second, I shall look at the causes of the problem; and third, I shall present some of my prescriptive solutions.

My message is that systemic racism in the federal public service continues to impede the progress of visible minorities. Yet, the government simply does not recognize or acknowledge that there is a crisis. We must illuminate the issues, clarify the concerns and cast a bright light on the truth — that is, that a racially diverse and inclusive federal public service is a better public service for all Canadians, both now and in the future.

To begin, allow me to remind you of the Canadian Multiculturalism Act, passed in 1988. Its first goal was to foster a society that recognizes, respects and reflects a diversity of cultures so that people of all backgrounds feel a sense of belonging and attachment to Canada. Its second goal was to build a society that ensures fair and equitable treatment and that respects the dignity of people of all origins. Its third goal was to aspire to develop among Canada's diverse people, active citizens with both the opportunity and the capacity to participate in shaping the future of their communities and their country.

In recognizing the crucial role that federal organizations can play in preserving and enhancing Canada's multiculturalism, the act outlines specific instructions for the federal government. These include, among others:

ensure that Canadians of all origins have an equal opportunity to obtain employment and advancement in those institutions;

promote policies, programs and practices that enhance the ability of individuals and communities of all origins to contribute to the continuing evolution of Canada;

promote policies, programs and practices that enhance the understanding of and respect for the diversity of the members of Canadian society.

Have these instructions been followed? Do visible minorities have equal employment opportunities in the federal public service? Are there programs in place to enable them to fully contribute their talents and abilities to the federal service? Are their issues understood? Is their diversity respected? The answer to these questions, honourable senators, is no, no, no, no, and no.

• (1810)

Under the Employment Equity Act, the federal government must ensure that the members of four designated groups — Aboriginal people, women, the disabled and visible minorities — achieve equitable representation and participation in its workforce. To address the specific requirements of three of these designated groups, there are special federal government departments, secretariats or resource centres. There are comprehensive training and awards programs, and financial, technical and professional assistance to support priority issues.

Those initiatives are working and working very well, according to the most recent employment equity report; yet there is nothing of the same magnitude and depth for visible minorities. Even the government's newly created Public Service Management Agency does not include any new initiatives for visible minorities.

Of course, there is the "Embracing Change" action plan endorsed in June of 2000 by the government to address the under-representation of visible minorities in the federal public service and to reflect modern Canadian society. "Embracing Change" was designed to eliminate systemic barriers, to foster a favourable corporate culture and to assume direct responsibility for the achievement of the benchmarks aimed at building a representative and inclusive federal public service.

Is the plan effective? Are there proportionally more visible minorities being hired? Are people of colour advancing to positions of greater responsibility where they can have a positive impact on the diversity culture of the federal public service? Again, the answer to all of these questions is no. Visible minorities remain at the bottom of the heap.

Let us look at the annual report to Parliament on employment equity in the federal public service released last month. It brags about the government's achievements in "becoming a more representative and inclusive national institution." It reports that

the latest figures show improved representation among all designated groups in the Canadian public service — women, Aboriginal people, persons with disabilities and visible minorities. It also applauds the fact that representation by the first three groups in the public service exceeds their labour-market availability.

Although the report acknowledges that the government must step up progress among visible minorities, it glosses over these pivotal facts: first, that the government's progress in relation to visible minorities is a disgrace; and, second, that the government is not doing enough to address the problem.

Visible minorities now make up 13.4 per cent of the Canadian population, yet persons in a visible minority group represent only 7.4 per cent of the federal public service workforce — an increase of only 0.6 per cent over the last year. What is more, the percentage of new hires from visible minority groups actually declined this year.

Those statistics are a far cry from the targets established by "Embracing Change" action plan. Those targets, committed to by the Government of Canada, were to ensure that, by 2003, one in five of all new hires, or 20 per cent of those hired from outside the public service, would be members of a visible minority. By 2005, one in five, or 20 per cent, of all new appointments to the senior executive groups would be members of a visible minority.

Nevertheless, despite the somewhat sluggish pace of progress, the Employment Equity Division of the PCO simply promises to continue providing "departments with models of success" and to supply the tools and assistance in building departmental capacity to effect change.

Honourable senators, this is simply not good enough. If these models, tools and assistance are not working today, what makes the Martin government believe that they will work tomorrow? Denial will not make the problems go away and it will not ensure that the public service becomes a model and sets an example for employers of all sectors of the economy.

Honourable senators, I believe the root problem here is a form of systemic racism, a problem that Canadians of colour have long endured in the workplace. Let me give you an example. In 1984, the Urban Alliance on Race Relations and the Social Planning Council of Metropolitan Toronto commissioned a research study on racial discrimination in the hiring process. The study concluded that there is a substantial level of racial discrimination against individuals from visible minorities seeking employment.

Honourable senators, systemic racism in the public service of Canada has reached an all-time high. Morale among visible minorities is at an all-time low. There is little, if any, hope of advancement or of being treated equally with others. Nothing is being done to address this problem because few people recognize

or understand or accept the ugly reality that systemic racism still exists in this country. There is a widely held misconception and misperception that racism, prejudice and bigotry are things of the past, but the fact is that racism continues to cloud the judgment of Canadians. It is a problem that has simply not gone away.

For example, Blacks will celebrate the four hundredth anniversary of our presence in Canada next year. During that period, much has happened to us. We have gone from slavery to freedom. We have taken part in two world wars. We have done our part in building this country into what it is today. Despite that, we remain unequal.

I have felt the lash of discrimination. I am painfully aware of what it is like to receive anonymous hate mail, to be treated with contempt, to have business opportunities denied to me because I am Black. I know the pain of watching others bend and eventually break under the pressure of discrimination. I know what it is like to see potential, unfulfilled lives ruined because of racism. I know all this and I would like to see it stopped.

Racism has existed in Canada for as long as Black people have been here. In the 1840s, an Ontario magistrate by the name of Robert Lachlan claimed that the province's 1,600 Blacks caused more crime than all of their 16,000 fellow White citizens combined.

In 1912, Dr. George Parkin, respected educator and formerly Headmaster of Upper Canada College in Toronto, claimed that one of the advantages of Canada's rigorous climate is that it "keeps Blacks out."

During the First World War, Black men were denied the opportunity of serving their country in the regular army. They were instead relegated to a special construction battalion. Here in Ontario, it was not until 1965 that the last segregated school closed its doors. As late as 1968, Black people were denied the right of burial in some Nova Scotia cemeteries.

Today, how many Black executives are there in major banking or insurance institutions in this country? How many Black university presidents are there? How many Black commanders in the Armed Forces? How many Black politicians? How many Black leaders in the federal public service? Why, after all the rhetoric, do Blacks and other visible minorities only make up 7.4 per cent of the federal civil service when they represent 13.4 per cent of the population?

The Charter of Rights and Freedoms states that everyone in this country is equal before the law. It prohibits discrimination on the basis of race, national or ethnic origin, colour or religion. The Canadian Human Rights Act provides that every individual should have an equal opportunity to make the life he or she is able to and wishes to have, again, without fear of discrimination. The Canadian Citizenship Act says that all Canadians are entitled to the same rights, powers and privileges.

Despite all that, visible minorities in this country still face discrimination. Perhaps it is not the in-your-face "you may not eat in this restaurant" type of rejection from 30 or 40 years ago when I was growing up, but it is something far more subtle and more insidious. It is called the glass ceiling, a plateau above which visible minorities are unable to rise, no matter their abilities or competence or achievement. People of colour are never sure when they will bump their heads on this ceiling, but they know it is there. They know that if they aspire too high, they will be pushed aside, held back, squeezed out, denied the opportunity to participate fully and equally with their fellow Canadians.

Honourable senators, there is a war for equality in this country and, make no mistake, it is a war. The first step in winning the fight is to get the unvarnished truth.

Racism exists in Canada, indeed around the world, and remains largely invisible, hugely underestimated and wholly pervasive. There was a fascinating article published recently in the *Guardian* publication from London, England. For me, it describes in very compelling terms the fundamental problems concerning racism. Martin Jacques, a White man and a visiting fellow at the London School of Economics, wrote this article about his impressions and experiences with racism. He begins his article with the following:

• (1820)

I always found race difficult to understand. It was never intuitive. And the reason was simple. Like every other White person, I had never experienced it myself; the meaning of colour was something I had to learn. The turning point was falling in love with my wife, an Indian-Malaysian, and her coming to live in England. Then, over time, I came to see my own country in a completely different way, through her eyes, her background. Colour is something White people never have to think about because for them it is never a handicap, never a source of prejudice or discrimination, but rather the opposite, a source of privilege. However liberal and enlightened I tried to be, I still had a White outlook on the world. My wife was the beginning of my education.

According to the ethnic diversity study just released by Statistics Canada, for example, almost one third of Black Canadians said they had experienced discrimination or unfair treatment in the past five years. The report also showed that Canadian-born and foreign-born Blacks aged 25 to 54 years earned about \$6,000 less, on average, than other Canadians in the year 2000. In addition, the jobless rate for Blacks was at least 1.9 percentage points higher than for the rest of the population in the year 2001.

That is deplorable, and the situation is no better in the federal public service.

In short, no matter how much anyone may try to deny or ignore it, racism still rears its ugly head in the federal civil service, in the workplace at large and in society as a whole, and we as senators must act in a positive and decisive way to solve this issue.

[Senator Oliver]

The Hon. the Speaker pro tempore: Honourable Senator Oliver, your time has expired. Are you asking for leave to continue?

Senator Oliver: Might I have another five or six more minutes, honourable senators?

Hon. Senators: Agreed.

Senator Oliver: It is not simply a nice thing to do or the right thing to do, it is the smart thing to do. Consider these statistics: The number of people from visible minorities in Canada has doubled over the past decade. Immigration now accounts for more than 50 per cent of Canada's population growth. Forty-eight per cent of the students at the University of British Columbia are visible minorities. By 2010, more than half the population of Canada's major urban centres will be first-generation immigrants, and by 2016 about two thirds of the Canadian labour force will be made up of employment equity designated groups.

At the rate the federal government is progressing, it will never catch up.

Meanwhile, thanks to progressive immigration laws, millions of non-White Canadians have come to this country from Asia, Africa, the Middle East and points in between. In the process, they have made Canada one of the most, if not the most, multi-racial societies in the world. Diversity is a fact of life in this country. However, these newcomers must overcome major hurdles. That is not fair to them and it is not good for Canada, either economically or socially.

For example, newcomers to Canada earn about 15 per cent less than the average Canadian. Their professional credentials are often unrecognized. This means qualified physicians, engineers and other professionals often cannot provide their expertise to other Canadians.

A few weeks ago, I read in *The Globe and Mail* that an award-winning rocket scientist from China makes cinnamon buns in a Toronto subway station. We continue to hear stories about immigrant computer scientists flipping burgers or doctors driving taxis. What a waste of talent, knowledge and skills. This waste costs the Canadian economy between \$2 billion and \$3 billion each and every year.

As I have shown, Canada is becoming an increasingly diverse society, but I think that we have a long way to go before we become a truly inclusive society.

As the Honourable David See-Chai Lam, the former Lieutenant Governor of British Columbia and a very distinguished philanthropist and Canadian said:

"Tolerant" is a slightly negative word. It's like saying, "You smell, but I can hold my breath."

To continue with this metaphor, there is an unpleasant odour emanating from the federal public service. It is the smell of systemic racism. It will not go away with a few squirts of an air freshener. We need to open the windows and bring in the sunshine of truth. We need to open the doors of opportunity for visible minorities.

Allow me, in conclusion, to outline briefly some of the steps I feel the federal government should take now in a decisive, positive and enduring way to eliminate systemic racism in the federal public service.

First, we need visible and powerful leadership on this issue from the top. The Right Honourable Brian Mulroney demonstrated his calibre of leadership when he appointed a Black Chief Justice of the Federal Court of Canada, a Black Lieutenant Governor in the Province of Ontario and a Black senator in the Senate of Canada. Prime Minister Martin must actively aspire to the same record of inclusion for visible minorities in the highest offices of this country.

Second, we need a visible minority commission in the Privy Council Office, something like the Official Languages Commissioner.

Third, I believe a comprehensive executive exchange program would prove highly effective in both the short and the long term in reducing systemic racism.

Fourth, we must set clear targets for ensuring that leaders of colour are appointed to the executive ranks of Crown corporations where they can have real influence on the diversity culture of federal institutions.

Fifth, we need to educate and sensitize both private sector search firms as well as recruiters within the public service about the problems and issues impeding the advancement of visible minorities.

Sixth, I believe that we must elevate the role and place more responsibility for hiring visible minorities with the human resources heads of federal departments. They need to understand the issues facing visible minorities and do their part to eliminate these barriers.

Seventh, we must do more, not only to attract visible minorities but also to keep them on board. Many organizations, both public and private, suffer from the revolving door syndrome. This occurs when a member of a visible minority joins an organization only to find that the organization's environment is uncomfortable, so he or she simply leaves.

I believe we need to gain a better picture of the number of people from ethnic minorities applying for jobs and at what levels, and we need to understand how many are successful, how many are promoted and how many leave through the revolving door.

Often times organizations only collect data about the numbers of visible minorities hired and not the more extensive and quantitative data that will give them the full picture of the problems and issues.

Honourable senators, I am doing a study with the Conference Board of Canada and we will be releasing our report on May 27. That report will set out a guideline of best practices that both the public sector and the private sector can use if they want to become diversity organizations.

The Conference Board also looked for organizations that have diversity-sensitive recruitment and selection techniques, programs promoting career development of minorities and fair promotion practices for visible minorities and the like.

In conclusion, honourable senators, a diverse society looks to the future. It is a society that uses all of its potential. It is a place where cooperation is based on talent and where talent and ability are more important than skin colour. That is the Canada that I have worked all my life to achieve; that is the Canada that the federal public service must emulate; that is the Canada that we must build.

Honourable senators, now is the time for government to act.

On motion of Senator Di Nino, debate adjourned.

PROTECTION OF NAHANNI WATERSHED

MOTION URGING GOVERNMENT TO TAKE ACTION— DEBATE ADJOURNED

Hon. Consiglio Di Nino, pursuant to notice of March 25, 2004, moved:

That the Senate call upon the Government of Canada:

(a) to expand the Nahanni National Park Reserve to include the entire South Nahanni Watershed including the Nahanni karstlands;

(b) to stop all industrial activity within the watershed, including:

(i) stopping the proposed Prairie Creek Mine and rehabilitating the mine site,

(ii) ensuring complete restoration of the Cantung mine site,

(iii) immediately instituting an interim land withdrawal of the entire South Nahanni Watershed to prevent new industrial development within the watershed; and

(c) to work with First Nations in the Deh Cho and Sahtu regions of the Northwest Territories to achieve these goals.

He said: Honourable senators, on a regular basis we all receive many letters and petitions. As I am sure all of you do, I do my best to examine them all, and where I can, I try to help.

For a number of years, I have been in contact with a gentleman by the name of Neil Hartling of Whitehorse, an outfitter for many northern Canada experiences, who has written about the unparalleled beauty of Arctic Canada and some of our irreplaceable national treasures. As well, for the past two or three years, I have received information from the Canada Parks and Wilderness Society, outlining their efforts to safeguard the areas of our northern regions that are at risk, including the Nahanni Watershed in the Northwest Territories. Mr. Hartling's appeal this spring about the Nahanni spurred me to act.

• (1830)

I decided to draw attention to this important issue for which I have a real passion by putting this motion on the floor of the Senate. I must confess that in my exuberance I went ahead without informing our colleague from the Northwest Territories, Senator Sibbeston. I did not let him know my intentions before I introduced the motion. He chastised me and I agree with him. I should have consulted him. Notwithstanding this oversight, Senator Sibbeston and I have agreed to work together to move this initiative forward.

The South Nahanni River and surrounding wilderness is one of Canada's and indeed the world's most spectacular and best known natural places. It is located in the remote Mackenzie Mountains of the Northwest Territories, close to the border with the Yukon. The river carves its way through the mountains, drops over Virginia Falls — a waterfall twice as high as Niagara Falls — with its magnificent Mason Rock, and runs through four major canyons, among the deepest in Canada, and almost as deep as the Grand Canyon. The watershed, or drainage basin, including the Nahanni Karstlands, covers approximately 35,000 square kilometres of wilderness, virtually unmarred by roads and the impact of other human infrastructure. It is truly a place of remarkable diversity of life.

Karstlands are fascinating landscapes of limestone in which erosion has produced fissures, sinkholes, underground streams and caverns. The Nahanni Karstlands are of tremendous interest to natural scientists. They include underground caves and water that flows into the Nahanni River from below the ground. Dr. Derek Ford, of McMaster University, has described Karstlands as "truly unique, and as an assemblage of landforms, there is nothing like it anywhere else in the world." They are not technically part of the surface watershed, but they are an integral part of the beauty and importance of the area being considered, which is why I mention them specifically.

It has been eight years since I embarked on a magic carpet ride — although a rough ride — when I canoed the South Nahanni River, a world icon for whitewater enthusiasts. It is hard to express how spectacular the watershed is. It is not too grand to say that it was truly a spiritual experience. Its stark beauty and stunning vistas immediately inspired me with awe, from the calm waters above the falls to the turbulent rapids below.

The first major rapids referred to from time to time as Hell's Gate or the "figure eight," are a challenge to even the most professional of whitewater canoeists. I remember approaching them with a great deal of apprehension, fear and finally unmatched exhilaration.

Surviving Hell's Gate, mainly thanks to the great canoeist in the stern of my boat, was for me a remarkable achievement. I continued downriver, past valleys, mountain vistas, canyons and magnificent lookouts — particularly the gate — to a wonderful respite at Krause's Hot Springs. The eerie and mystical dance of the Northern Lights is the memory of a lifetime. It was truly breathtaking.

I can still see the eagles and osprey above and the Dall's sheep on the mountainside. I remember the magnificent grizzly on the shore, rising up on its hind legs and giving passionate warning about our foray into its territory. I remember paddling much faster in respectful acknowledgment. I also remember the fear in my heart.

Finally, I remember the residents at the base of the watershed in the Aboriginal village of Nahanni Butte. Each day brought a new experience and magnificent views of land revered by the First Nations people and all who visit it.

Once again, I was provided with a greater appreciation for why First Nations people have so much respect for the land. I hope I have given honourable senators just a glimpse of why I believe this is a most beautiful piece of Canada worthy of protection.

Part of the watershed is already protected in a national park reserve, which, although managed as a national park, the reserve designation indicates that it is pending the resolution of land claims, in this case the self-governance negotiations between Deh Cho First Nations and the Government of Canada.

In addition, as part of the negotiations, 18,800 square kilometres of land in the Deh Cho portion of the watershed were withdrawn from development in the fall of 2003 for a period of five years with the intent to eventually include them in an expanded national park reserve. This is 68 per cent of the watershed and 85 per cent of the Deh Cho portion of the watershed. The Deh Cho have been leading the way toward expanding the park.

In the Sahtu region, the draft land use plan released in January 2003 identifies the Nahanni headwaters, approximately 20 per cent of the watershed, for protection, with an interest in a national park expansion.

Last month, the Dene Band in the local community of Tulita in the Sahtu region passed a motion to move the Nahanni headwaters into the Northwest Territories Protected Area Strategy as a mechanism for providing long-term protection for the headwaters. This is a process that will allow for a national park expansion in the upper watershed.

There is significant progress being made. However, this is not enough to provide long-term security to the wildlife, water quality and wilderness values of the region because even if initiatives in the Sahtu and Deh Cho regions are successful, as things stand, 15 per cent — and an important 15 per cent — of the watershed will remain unprotected.

It is worth noting the circumstances of how this became a protected reserve. In 1970, newly elected Prime Minister Pierre Trudeau, an accomplished canoeist, visited the South Nahanni River and Virginia Falls. On his return to Ottawa, he directed the then Minister Responsible for National Parks, Mr. Jean Chrétien, to establish a national park to protect the Nahanni. There is a story that when Mr. Trudeau saw the map of the proposed park, he asked, "Is that all?" Whether truth or myth, this story reflects the need to protect a larger area if we are to properly protect the wildlife, wilderness values and water quality of the region.

There have been a series of reports prepared by the federal government suggesting how to expand the park to improve its ability to protect wildlife and to better represent the natural region in which it is located.

Mr. Trudeau's fear that the park was too small was correct. The current boundaries of the park protect 4,766 square kilometres, only one-seventh of the watershed. This means that the park waters and ecosystems are vulnerable to the impact of any development that takes place in the other six-sevenths of the watershed.

The original boundaries were based on protecting the river, falls and canyons from development. Little was known about the ecological values of the area at that time. The boundaries of the current park do not reflect the needs of wildlife, nor do they adequately represent the area. There are three areas currently at risk: plant life, wildlife, and the culture and way of life of the Deh Cho and Sahtu First Nations.

The watershed lies within boreal forest regions of Canada and its sulphur hot springs, alpine tundra, mountain ranges and forests of spruce and aspen are home to many species of birds, fish and mammals. A diverse physical landscape provides habitat for a rich diversity of vegetation and wildlife, unusual for an area this far north.

The Nahanni protects such species at risk as woodland caribou and grizzly bears. However, current park boundaries do not protect adequate habitat for these wide-ranging species.

On March 29, *The Edmonton Journal* reported that a group of scientists had discovered that the mountainous wilderness park on the Yukon border is also home to one of the most genetically diverse population of grizzly bears on the continent; yet, the park boundaries are thoroughly inadequate to protect the population.

The research of Dr. John Weaver of the Wildlife Conservation Society demonstrates what Nahanni park officials have long realized — that the existing boundaries are not spread out far enough to protect a carnivore like the grizzly.

The Aboriginal communities in the area, the Deh Cho and the Sahtu, strongly support the protection of the entire watershed. The watershed is part of the traditional home and is a cornerstone of the way of life and culture of these nations.

On March 23, I received a letter from Chief Peter Marcellais of the Nahanni Butte Dene Band of the Deh Cho First Nation strongly supporting my motion.

• (1840)

In part, he writes:

This brief letter is to ... thank you for any action ... which will protect our traditional lands and waterways in the South Nahanni from the dangers of industrial intervention.

There are, unfortunately, looming threats to the Nahanni. While the Canadian government has reserved most of the surrounding land for potential expansion, within the 15 per cent of the watershed that is not yet included in any plans for expansion lie a number of significant dangers to the future of the ecological integrity of the park. Parks Canada has identified mining as "the single greatest threat to the ecological integrity" of the South Nahanni River Watershed. There are two mine sites within the South Nahanni River Watershed. The first, the Cantung Mine, is located on the flat river approximately 100 kilometres upstream from Nahanni National Park Reserve and World Heritage Site. The mine is located in an area of important woodland caribou habitat.

The mine produced tungsten from open pit operations in the 1960s and early 1970s. It was closed until January 2002, when it was reopened. Within weeks of opening, a fuel spill of more than 23,000 litres occurred at the site, highlighting concerns of the impact on the park down the stream. Waste materials have been observed downstream as far as 15 kilometres from the mine, approximately 85 kilometres upstream from the park boundary. The mine is now closed again. The Department of Indian Affairs and Northern Development released a report in March 2003 on the reclamation liability of the Cantung Mine. The report estimates that it would cost approximately \$48 million to undertake complete restoration of the mine site.

The second mine is the proposed Prairie Creek Mine. The mine site is located on the flood plane, a tributary of the South Nahanni River, 32 kilometres upstream from the Nahanni National Park Reserve. It poses serious threats to the ecosystem and wildlife. Concerns about this mine revolve around the existing toxic legacy of the 20-year-old mine site, the potential for contamination if a working mine were to proceed and the impact of proposed road access across the sensitive karstlands that are identified for protection in an expanded national park.

The mine includes complete mining infrastructure but has never operated. There have been environmental assessments on small individual projects and activities at the mine, but there has not been an assessment of the overall impact of this 20-year-old site. Environmental assessments that have been completed have found that the proposed mining activities would likely cause significant adverse environmental impact, unless subjected to stringent conditions. The proposed road to the Prairie Creek Mine site would certainly damage the karstlands.

In 1966, the company signed a development cooperation agreement with the Nahanni Butte Dene Band of the Deh Cho First Nations. The company has frequently referred to this agreement in its communications. However, in October 2003, the Nahanni Butte Dene Band withdrew from the agreement with the company and subsequently issued a press release stating they had terminated the agreement. The band is concerned about the impact of the mine and, as set out in the letter I received from them, the band is supportive of protecting the lands in an expanded Nahanni National Park Reserve.

Those are two existing mining concerns. However, mineral staking continues in those parts of the watershed omitted from the 2003 interim land withdrawals. Within the last month, two prospecting permits were issued in the southwest corner of the watershed. That highlights the urgent need to withdraw the entire watershed to protect it from potential contamination. Further delay will only result in a more difficult and expensive task in protecting the land later on.

Honourable senators, it is time to act on the wishes of the local people in the Deh Cho and Sahtu regions of the Northwest Territories who have formally expressed their desire to protect the entire watershed.

It is time to act on the advice of scientists, conservationists, canoeists like myself and wilderness lovers from all over Canada and the world who have urged the government to protect the watershed, including the Nahanni karstlands, through the thousands of letters they have sent to government officials. I ask you to join me in urging the Government of Canada to act quickly to expand the Nahanni National Park Reserve to protect the entire South Nahanni Watershed, including the karstlands. We owe this legacy to our future generations.

Honourable senators, I look forward to the contributions of Senator Sibbeston and other colleagues to this debate.

Hon. Nick G. Sibbeston: Honourable senators, I am pleased to speak on the motion to give it support and propose an amendment to put it in tune with the political reality of the North.

I was initially upset and even embarrassed that Senator Di Nino from Toronto was the mover of such a motion dealing with a park in the Northwest Territories. I do take my job seriously, as a senator for the Northwest Territories, and I thought what is a senator from the south — from Toronto — doing with an issue that is so central to the North? I could even imagine people up North asking, "Where were you? Were you in Mexico while all this was happening?"

However, since Tuesday, Senator Di Nino and I have met. We are best of friends now, and we are on the same path, as it were, to supporting such a matter. I recognize that I perhaps overreacted, and it was just a tempest in a teapot as far as I am concerned.

I see him as an ally, and I am glad he came to the North and has been to the Nahanni National Park. It is a wonderful part of our

country. It is majestic, absolutely beautiful and stunning, and people from all over the world come. I invite all of you in your time to come to the North and see its beauty and majesty.

The Canadian Parks and Wilderness Society, CPAWS, has always promoted parks. They have been in the Northwest Territories and have worked with the native people in our area, promoting park matters and the expansion of the Nahanni Park.

When I dealt with them the other day, I asked, "What kind of an organization are you, anyway, to get someone from the south to do your work and lobby?" Since then, I have come to appreciate them. I had a good meeting with them yesterday.

Honourable Senators, the Nahanni National Park is in a Deh Cho area, near Fort Simpson, where I was born and live. The park is in an area where my ancestors lived. My grandfather, who was a hunter and trapper, though dead now, still has a cabin in the Nahanni on the Flat River. His cabin is just below Virginia Falls, a very beautiful falls that people come to see.

There is a spot on the Nahanni River, which Senator Di Nino may remember, called George's Riffle. That is named after my grandfather. He apparently was coming down in the spring after being on a mountain all winter and he had a spill, so it is named after him.

There is another area called Lafferty's Riffle; that also is named after one of my relatives. A lake in the area is named after my father. I am, therefore, historically, culturally and emotionally connected and attached to this part of the North.

One of my uncles, Fred Sibbeston, guided the boat when Prime Minister Trudeau first came down the Nahanni River. My uncle Ted was Trudeau's interpreter when he arrived at Nahanni Butte and met with the people. He sat cross-legged in the grass meeting with the people, and, Ted, my uncle was the translator.

I made numerous trips into the park, even before it was a park, beginning in the early 1970s. My children — my sons, in particular — continue to go to the Nahanni Park.

Honourable senators, I have an amendment that deals with two aspects that will enhance the way that the park expansion can be done.

The first deals with a requirement that the federal government respond to and develop policies directed at making northern parks more conducive to Aboriginal employment, cultural involvement and business opportunities. A report on this was completed by a subcommittee of the Aboriginal People's Committee, in September of 2001. Some of us went to Inuvik, Whitehorse and Iqaluit and met with people who were dealing with the northern parks, and we produced a very good report that has many recommendations. The gist of it is that we found, as we met and talked to people in the park, that the southern park approaches were attempted to be used in the North, and they did not always work. The conclusion was that there was need to establish a unique, culturally sensitive way of dealing with northern parks. This report deals with that.

• (1850)

What I am saying is that before a park is expanded, the federal government, Parks Canada, ought to respond to this report, ought to come up with policies that really meet the unique aspects of people in the North. One of the amendments I am proposing is that this report be considered.

The second matter involves the need for a complete assessment of mineral and energy resources in the proposed park expansion area. The Mineral and Energy Resource Assessment process, called MERA, was established in 1980 as a prerequisite to establish parks in the Northwest Territories and the Yukon. I am proposing that this be done. Studies have been done to cover certain parts of the park in the expansion, but a complete one was not done. Hence, before the park expansion is done, I believe a complete mineral assessment of the area must be done, just so that we all know. It is already noted that there are minerals in those lands, but it is important to have a complete assessment of minerals.

The expansion purports to expand seven times the present size of the park. When park boundaries are established, we know that it is very difficult or almost impossible for them to be changed.

We saw this when the Tukut Nogait National Park was established in the 1989 era. Senator Adams dealt with this. Honourable senators may recall the issue, where after boundaries of the park were established a company exploring the area found that there was good mineralized property in the area and wanted to establish a mine. There was an attempt, after the boundaries were more or less drawn on the paper, to reduce the size of the park, to exclude the mineralized area.

The people of Paulatuk supported the decrease, arguing that it would create 75 jobs. The Inuvialuit, who were in negotiations with the federal government in that area, the Government of the Northwest Territories, and even the senator for the area, argued very hard to have the park decreased so that exploration and development could occur in that area, but the federal government said that it would not open up the boundary issue, and so the request was denied. We know, honourable senators, that once boundaries are established, it is difficult and almost impossible for them to be changed. Hence, before boundaries are expanded, it is important to make sure that we know what is in the area.

The creation of park boundaries and expansions is a very serious undertaking. Therefore, before the national park is expanded, we need to know definitively what the lands contain.

There is a land claims process going on in this part of the North. I am one of the members of that organization, and will eventually be a beneficiary, so of course I am interested and want to be sure that it will be done properly.

Present and future generations will be bound. Young people are being educated and trained in our schools and colleges in the North for employment opportunities. Trapping is becoming less

and less a way of life. It is still important, but every year it does seem that as people get old there are fewer people trapping, so obviously the wage economy is important and will be more important for the people of the North.

Honourable senators, some industry and development will be necessary in the future for young people to be meaningfully engaged. Just like people in the South, people in the North enjoy driving new Ford trucks, enjoy using computers, enjoy all the amenities of life. Obviously, if the standard of living is to be maintained, they will need to have employment opportunities.

While parks are fine, I have always maintained that one cannot make a living just by being situated close to a park in itself. When my uncle visited Nahanni Butte, he would say, "What beautiful scenery, but you can't eat it." One needs employment, one needs opportunities, and one needs game in order to live.

The Deh Cho process that is currently underway in the North has in its plans to eventually set up their own self-government, and there will be need for money, royalties and taxes to operate and provide services.

For all of these reasons, before we launch off into expanding the Nahanni National Park, we need to seriously consider the two issues that I have raised, that of park management and administration, so that the federal government and Parks Canada can develop and have a unique northern approach to management of parks, and, second, that there be a full resource assessment, so that we know definitively what is in that land that could be made into a park and then not available to any future development.

Honourable senators, I have an amendment, which will provide that. I believe these amendments are very good, and I expect they will be well received.

MOTION IN AMENDMENT

Hon. Nick G. Sibbeston: Honourable senators, I move, seconded by the Honourable Senator Ione Christensen:

That the motion be amended as follows:

(a) in paragraph (a),

(i) by adding the word "possibly" after the word "Reserve", and

(ii) by adding after the word "karstlands" the following:

"at an appropriate time and consistent with the cultural, social and economic interests of the people of the region, the Northwest Territories and Canada";

(b) in paragraph (b), by replacing the words “to stop” with the following,

“to protect the environmental integrity of the South Nahanni watershed by reviewing”;

(c) in subparagraph (b)(i), by deleting the word “stopping” and the words “and rehabilitating the mine site”;

(d) in subparagraph (b)(ii), by deleting the words “ensuring complete restoration of”;

(e) in subparagraph (b)(iii),

(i) by deleting the words “immediately instituting an interim land withdrawal of the entire South Nahanni Watershed to prevent”,

(ii) by deleting the word “and” at the end; and

(f) by adding, after paragraph (b),

(i) a new paragraph (c) to read as follows:

“(c) to include as part of the review:

(i) a response to the Senate report, Northern Parks — A New Way that indicates the government’s policy to ensure employment and economic benefits from the creation of northern parks will flow to local aboriginal people, and

(ii) a complete assessment of mineral and energy resources in the area”, and

(ii) by relettering the current paragraph (c) as (d).

On motion of Senator Christensen, debate adjourned.

• (1900)

AGRICULTURE AND FORESTRY

COMMITTEE AUTHORIZED TO MEET DURING ADJOURNMENT OF THE SENATE

Hon. Donald H. Oliver, pursuant to notice of March 31, 2004, moved:

That the Standing Senate Committee on Agriculture and Forestry be empowered, in accordance with rule 95(3), to sit between Monday, April 5, 2004 and Thursday, April 8, 2004 inclusive, even though the Senate may be adjourned for a period exceeding one week.

Motion agreed to.

COMMITTEE AUTHORIZED TO TABLE REPORT DURING ADJOURNMENT OF THE SENATE

Hon. Donald H. Oliver: Honourable senators, pursuant to notice of March 31, 2004, I move:

That the Standing Senate Committee on Agriculture and Forestry be permitted, notwithstanding usual practices, to deposit an interim report with the Clerk of the Senate between Monday, April 5, 2004 and Friday, April 16, 2004, inclusive, should the Senate not then be sitting, and that the report be deemed to have been tabled in the Chamber.

Hon. Eymard G. Corbin: Honourable senators, I would like to know the purport or importance of the matter wished to be reported on such that it could not wait until we come back. I ask this question seriously.

Senator Oliver: I would be pleased to respond.

The Standing Senate Committee on Agriculture and Forestry has, for several weeks now, been conducting hearings into the BSE crisis in Western Canada. More than 1,200,000 live cattle under 30 months are waiting to go over the border to the United States. It is a massive crisis. We have prepared a report with recommendations, but it has not yet been translated. Once it is translated, we hope to table it. Should the Senate not come back on April 20, we want to ensure that this important report is available to those it affects.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators to adopt the motion?

Motion agreed to.

LOUIS RIEL BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Joyal, P.C., seconded by the Honourable Senator Gill, for the second reading of Bill S-9, to honour Louis Riel and the Metis People.—(*Honourable Senator Stratton*).

Hon. Terry Stratton: Honourable senators, I will be brief. I am fulfilling a commitment made to Senator Joyal that I would speak to this bill.

I rise today to speak at second reading of Bill S-9, to honour Louis Riel and the Metis people. I congratulate the sponsor of the bill, Senator Thelma Chalifoux. I believe that she has been able to include in this bill the celebration of the many aspects of the rich heritage of the Metis people of Canada.

This bill deals with the issue of Louis Riel and his contribution to the history of both Canada and Manitoba. It acknowledges that the arrowhead sash is to be recognized as a symbol of the Metis people. It also encourages the various parts of the Government of Canada to honour Louis Riel and to honour the Metis people through an appropriate display of the arrowhead

sash. Finally, it requires the Minister of Canadian Heritage to take appropriate action for the preservation of the memory of Louis Riel and the advancement of the Metis culture and history. In clause 3 of the bill, the historic role of Louis Riel as a Metis patriot and his present role as a Canadian hero are both acknowledged.

It is my contention, honourable senators, that this is unnecessary. I would take us back to Tuesday, March 10, 1992, at which time the Right Honourable Joe Clark, then Minister responsible for Constitutional Affairs, placed a resolution before the House of Commons that was agreed to by members of all political parties in both Houses. The resolution stated as follows:

That this House take note that the Metis people of Rupert's Land and the North Western Territory through democratic structures and procedures took effective steps to maintain order and protect the lives, rights and property of the people of the Red River;

That this House take note that, in 1870, under the leadership of Louis Riel, the Metis of the Red River adopted a List of Rights;

That this House take note that, based on the List of Rights, Louis Riel negotiated the terms for the admission of Rupert's Land and the North Western Territory in the Dominion of Canada;

That this House take note that those terms for the admission form part of the *Manitoba Act*;

That this House take note that, after negotiating Manitoba's entry into Confederation, Louis Riel was elected thrice to the House of Commons;

That this House take note that, in 1885, Louis Riel paid with his life for his leadership in a movement which fought for the maintenance of the rights and freedoms of the Metis people;

That this House take note that the *Constitution Act, 1982* recognizes and affirms the existing aboriginal treaty right of the Metis;

That this House take note that, since the death of Louis Riel, the Metis people have honoured his memory and continued his purpose in their honourable striving for the implementation of those rights;

That this House recognize the unique and historic role of Louis Riel as a founder of Manitoba and his contribution to the development of Confederation; and

That this House support by its action the true attainment, both in principle and practice, of the constitutional rights of the Metis people.

In speaking in support of this resolution, Mr. Clark stated that it was now time to recognize the constructive and important role Louis Riel played in defending the interests of the Metis people and his contribution to the political development of Canada and of the West. He went on to say that the adoption of this resolution demonstrated how Canada has matured as a nation and that in our common history we find strength, not weakness.

It should be noted that the spokesperson for the Liberal Party on that occasion was the member for St. Boniface, the late Senator Ron Duhamel. He supported this resolution but wished to have added to it that Louis Riel be recognized as one of the Fathers of Confederation. However, the important point for us is that he did support this resolution as the method of reconciliation. He stated:

I appreciate this resolution by the government. I feel the government has taken a major step forward.

It is not unusual for the government to seek redress for wrongs committed, at some far distant time, in the development of our country. For example, in September 1988, former Prime Minister Mulroney rose in the House of Commons to extend a formal apology on behalf of the Government of Canada to citizens of Japanese ancestry who, in the Second World War, were wrongfully incarcerated, had property seized and were disenfranchised. He said at the time:

Mr. Speaker, the treatment of Japanese Canadians in wartime was not only unjustified on moral and legal grounds, it went against the grain of the country itself.

More recently, the late Honourable Ron Duhamel, when Minister of Veterans Affairs, dealt in the House of Commons with the issue of 23 Canadian soldiers who were executed in the First World War for desertion and in one case for cowardice. These 23 members of the Canadian Expeditionary Force lie buried in Europe. In announcing that the names of those fallen Canadians would now be entered into the First World War Book of Remembrance along with their colleagues, Minister Duhamel stated:

We can revisit the past but we cannot recreate it. We cannot relive those awful years of a nation at peril in total war, and the culture of the time is subsequently too distant for us to comprehend fully.

I agree with those sentiments and the methodology used to address certain periods in the history of this country.

Honourable senators, I believe the resolution passed in the Senate and the House of Commons in 1992 dealing with Louis Riel and the Metis people is the most appropriate way to deal with all aspects of this matter. I look forward to listening to the interventions of other honourable senators in this chamber.

On motion of Senator Stratton, for Senator LeBreton, debate adjourned.

ABORIGINAL PEOPLES**MOTION TO ADOPT SIXTH REPORT OF COMMITTEE OF
SECOND SESSION AND REQUEST GOVERNMENT
RESPONSE ADOPTED**

On the Order:

Resuming debate on the motion of the Honourable Senator Sibbeston, seconded by the Honourable Senator Adams:

That the sixth report of the Standing Senate Committee on Aboriginal Peoples, tabled in the Senate on October 30, 2003, during the Second Session of the 37th Parliament, be adopted and that, pursuant to rule 131(2), the Senate request a complete and detailed response from the Government, with the Ministers of Indian Affairs and Northern Development, Justice, Human Resources and

Skills Development, Social Development, Canadian Heritage, Public Safety and Emergency Preparedness, Health, and Industry; and the Federal Interlocutor for Métis and Non-status Indians being identified as Ministers responsible for responding to the report.—(*Honourable Senator Stratton*).

Hon. Nick G. Sibbeston: Honourable senators, this matter has been on the Order Paper for quite some time. Senator Stratton agrees that we ought to deal with it.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and report adopted.

The Senate adjourned until Tuesday, April 20, 2004, at 2 p.m.

APPENDIX

Officers of the Senate

The Ministry

Senators

(Listed according to seniority, alphabetically and by provinces)

Committees of the Senate

THE SPEAKER

The Honourable Daniel P. Hays

THE LEADER OF THE GOVERNMENT

The Honourable Jack Austin, P.C.

THE LEADER OF THE OPPOSITION

The Honourable John Lynch-Staunton

OFFICERS OF THE SENATE**CLERK OF THE SENATE AND CLERK OF THE PARLIAMENTS**

Paul Bélisle

DEPUTY CLERK, PRINCIPAL CLERK, LEGISLATIVE SERVICES

Gary O'Brien

LAW CLERK AND PARLIAMENTARY COUNSEL

Mark Audcent

USHER OF THE BLACK ROD

Terrance J. Christopher

THE MINISTRY

According to Precedence

(April 1, 2004)

The Right Hon. Paul Martin	Prime Minister
The Hon. Jacob Austin	Leader of the Government in the Senate
The Hon. David Anderson	Minister of the Environment
The Hon. Ralph E. Goodale	Minister of Finance
The Hon. Anne McLellan	Deputy Prime Minister and Minister of Public Safety and Emergency Preparedness
The Hon. Lucienne Robillard	Minister of Industry and Minister responsible for the Economic Development Agency of Canada for the Regions of Quebec
The Hon. Pierre S. Pettigrew	Minister of Health, Minister of Intergovernmental Affairs and Minister responsible for Official Languages
The Hon. James Scott Peterson	Minister of International Trade
The Hon. Andrew Mitchell	Minister of Indian Affairs and Northern Development
The Hon. Claudette Bradshaw	Minister of Labour and Minister responsible for Homelessness
The Hon. Denis Coderre	President of the Queen's Privy Council for Canada, Federal Interlocutor for Métis and Non-Status Indians, Minister responsible for La Francophonie, and Minister responsible for the Office of Indian Residential Schools Resolution
The Hon. Rey D. Pagtakhan	Minister of Western Economic Diversification
The Hon. John McCallum	Minister of Veterans Affairs
The Hon. Stephen Owen	Minister of Public Works and Government Services
The Hon. William Graham	Minister of Foreign Affairs
The Hon. Stan Kazmierczak Keyes	Minister of National Revenue and Minister of State (Sport)
The Hon. Robert Speller	Minister of Agriculture and Agri-Food
The Hon. Giuseppe (Joseph) Volpe	Minister of Human Resources and Skills Development
The Hon. Reginald B. Alcock	President of the Treasury Board and Minister responsible for the Canadian Wheat Board
The Hon. Geoff Regan	Minister of Fisheries and Oceans
The Hon. Tony Valeri	Minister of Transport
The Hon. David Pratt	Minister of National Defence
The Hon. Jacques Saada	Leader of the Government in the House of Commons and Minister responsible for Democratic Reform
The Hon. Irwin Cotler	Minister of Justice and Attorney General
The Hon. Judy Sgro	Minister of Citizenship and Immigration
The Hon. Hélène Chalifour Scherrer	Minister of Canadian Heritage
The Hon. Ruben John Efford	Minister of Natural Resources
The Hon. Liza Frulla	Minister of Social Development
The Hon. Ethel Blondin-Andrew	Minister of State (Children and Youth)
The Hon. Andy Scott	Minister of State (Infrastructure)
The Hon. Gar Knutson	Minister of State (New and Emerging Markets)
The Hon. Denis Paradis	Minister of State (Financial Institutions)
The Hon. Jean Augustine	Minister of State (Multiculturalism and Status of Women)
The Hon. Joseph Robert Comuzzi	Minister of State (Federal Economic Development Initiative for Northern Ontario)
The Hon. Albina Guarnieri	Associate Minister of National Defence and Minister of State (Civil Preparedness)
The Hon. Joseph McGuire	Minister of Atlantic Canada Opportunities Agency
The Hon. Mauril Bélanger	Deputy Leader of the Government in the House of Commons
The Hon. Carolyn Bennett	Minister of State (Public Health)
The Hon. Aileen Carroll	Minister for International Cooperation

SENATORS OF CANADA

ACCORDING TO SENIORITY

(April 1, 2004)

Senator	Designation	Post Office Address
THE HONOURABLE		
Herbert O. Sparrow	Saskatchewan	North Battleford, Sask.
Edward M. Lawson	Vancouver	Vancouver, B.C.
Bernard Alasdair Graham, P.C.	The Highlands	Sydney, N.S.
Jack Austin, P.C.	Vancouver South	Vancouver, B.C.
Willie Adams	Nunavut	Rankin Inlet, Nunavut
Lowell Murray, P.C.	Pakenham	Ottawa, Ont.
C. William Doody	Harbour Main-Bell Island	St. John's, Nfld. & Lab.
Peter Alan Stollery	Bloor and Yonge	Toronto, Ont.
Peter Michael Pitfield, P.C.	Ottawa-Vanier	Ottawa, Ont.
Michael Kirby	South Shore	Halifax, N.S.
Jerahmiel S. Grafstein	Metro Toronto	Toronto, Ont.
Anne C. Cools	Toronto-Centre-York	Toronto, Ont.
Charlie Watt	Inkerman	Kuujuuaq, Que.
Daniel Phillip Hays, <i>Speaker</i>	Calgary	Calgary, Alta.
Joyce Fairbairn, P.C.	Lethbridge	Lethbridge, Alta.
Colin Kenny	Rideau	Ottawa, Ont.
Pierre De Bané, P.C.	De la Vallière	Montreal, Que.
Eymard Georges Corbin	Grand-Sault	Grand-Sault, N.B.
Brenda Mary Robertson	Riverview	Shediac, N.B.
Norman K. Atkins	Markham	Toronto, Ont.
Ethel Cochrane	Newfoundland and Labrador	Port-au-Port, Nfld. & Lab.
Eileen Rossiter	Prince Edward Island	Charlottetown, P.E.I.
Mira Spivak	Manitoba	Winnipeg, Man.
Roch Bolduc	Gulf	Sainte-Foy, Que.
Gérald-A. Beaudoin	Rigaud	Hull, Que.
Pat Carney, P.C.	British Columbia	Vancouver, B.C.
Gerald J. Comeau	Nova Scotia	Church Point, N.S.
Consiglio Di Nino	Ontario	Downsview, Ont.
Donald H. Oliver	Nova Scotia	Halifax, N.S.
Noël A. Kinsella	Fredericton-York-Sunbury	Fredericton, N.B.
John Buchanan, P.C.	Nova Scotia	Halifax, N.S.
John Lynch-Staunton	Grandville	Georgeville, Que.
James Francis Kelleher, P.C.	Ontario	Sault Ste. Marie, Ont.
J. Trevor Eyton	Ontario	Caledon, Ont.
Wilbert Joseph Keon	Ottawa	Ottawa, Ont.
Michael Arthur Meighen	St. Marys	Toronto, Ont.
J. Michael Forrestall	Dartmouth and Eastern Shore	Dartmouth, N.S.
Janis G. Johnson	Winnipeg-Interlake	Gimli, Man.
A. Raynell Andreychuk	Regina	Regina, Sask.
Jean-Claude Rivest	Stadacona	Quebec, Que.
Terrance R. Stratton	Red River	St. Norbert, Man.
Marcel Prud'homme, P.C.	La Salle	Montreal, Que.
Leonard J. Gustafson	Saskatchewan	Macoun, Sask.
David Tkachuk	Saskatchewan	Saskatoon, Sask.
W. David Angus	Alma	Montreal, Que.
Pierre Claude Nolin	De Salaberry	Quebec, Que.
Marjory LeBreton	Ontario	Manotick, Ont.

Senator	Designation	Post Office Address
Gerry St. Germain, P.C.	Langley-Pemberton-Whistler	Maple Ridge, B.C.
Lise Bacon	De la Durantaye	Laval, Que.
Sharon Carstairs, P.C.	Manitoba	Victoria Beach, Man.
Landon Pearson	Ontario	Ottawa, Ont.
Jean-Robert Gauthier	Ottawa-Vanier	Ottawa, Ont.
John G. Bryden	New Brunswick	Bayfield, N.B.
Rose-Marie Losier-Cool	Tracadie	Bathurst, N.B.
Céline Hervieux-Payette, P.C.	Bedford	Montreal, Que.
William H. Rompkey, P.C.	Labrador	North West River, Labrador, Nfld. & Lab.
Lorna Milne	Peel County	Brampton, Ont.
Marie-P. Poulin	Nord de l'Ontario/Northern Ontario	Ottawa, Ont.
Shirley Maheu	Rougemont	Saint-Laurent, Que.
Wilfred P. Moore	Stanhope St./Bluenose	Chester, N.S.
Lucie Pépin	Shawinigan	Montreal, Que.
Fernand Robichaud, P.C.	New Brunswick	Saint-Louis-de-Kent, N.B.
Catherine S. Callbeck	Prince Edward Island	Central Bedeque, P.E.I.
Marisa Ferretti Barth	Repentigny	Pierrefonds, Que.
Serge Joyal, P.C.	Kennebec	Montreal, Que.
Joan Cook	Newfoundland and Labrador	St. John's, Nfld. & Lab.
Ross Fitzpatrick	Okanagan-Similkameen	Kelowna, B.C.
Francis William Mahovlich	Toronto	Toronto, Ont.
Richard H. Kroft	Manitoba	Winnipeg, Man.
Douglas James Roche	Edmonton	Edmonton, Alta.
Joan Thorne Fraser	De Lorimier	Montreal, Que.
Aurélien Gill	Wellington	Mashteuiatsh, Pointe-Bleue, Que.
Vivienne Poy	Toronto	Toronto, Ont.
Ione Christensen	Yukon Territory	Whitehorse, Y.T.
George Furey	Newfoundland and Labrador	St. John's, Nfld. & Lab.
Nick G. Sibbeston	Northwest Territories	Fort Simpson, N.W.T.
Isobel Finnerty	Ontario	Burlington, Ont.
Tommy Banks	Alberta	Edmonton, Alta.
Jane Cordy	Nova Scotia	Dartmouth, N.S.
Yves Morin	Lauzon	Quebec, Que.
Elizabeth M. Hubley	Prince Edward Island	Kensington, P.E.I.
Laurier L. LaPierre	Ontario	Ottawa, Ont.
Viola Léger	Acadie/New Brunswick	Moncton, N.B.
Mobina S. B. Jaffer	British Columbia	North Vancouver, B.C.
Jean Lapointe	Sauvel	Magog, Que.
Gerard A. Phalen	Nova Scotia	Glace Bay, N.S.
Joseph A. Day	Saint John-Kennebecasis	Hampton, N.B.
Michel Biron	Mille Isles	Nicolet, Que.
George S. Baker, P.C.	Newfoundland and Labrador	Gander, Nfld. & Lab.
Raymond Lavigne	Montarville	Verdun, Que.
David P. Smith, P.C.	Cobourg	Toronto, Ont.
Maria Chaput	Manitoba	Sainte-Anne, Man.
Pana Merchant	Saskatchewan	Regina, Sask.
Pierrette Ringuette	New Brunswick	Edmundston, N.B.
Percy Downe	Charlottetown	Charlottetown, P.E.I.
Paul J. Massicotte	De Lanaudière	Mont-Royal, Que.
Mac Harb	Ontario	Ottawa, Ont.
Madeleine Plamondon	The Laurentides	Shawinigan, Que.
Marilyn Trenholme Counsell	New Brunswick	Sackville, N.B.
Terry M. Mercer	Northend Halifax	Caribou River, N.S.
Jim Munson	Ottawa/Rideau Canal	Ottawa, Ont.

SENATORS OF CANADA

ALPHABETICAL LIST

(April 1, 2004)

Senator	Designation	Post Office Address	Political Affiliation
THE HONOURABLE			
Adams, Willie	Nunavut	Rankin Inlet, Nunavut	Lib
Andreychuk, A. Raynell	Regina	Regina, Sask.	C
Angus, W. David	Alma	Montreal, Que.	C
Atkins, Norman K.	Markham	Toronto, Ont.	PC
Austin, Jack, P.C.	Vancouver South	Vancouver, B.C.	Lib
Bacon, Lise	De la Durantaye	Laval, Que.	Lib
Baker, George S., P.C.	Newfoundland and Labrador	Gander, Nfld. & Lab.	Lib
Banks, Tommy	Alberta	Edmonton, Alta.	Lib
Beaudoin, Gérard-A.	Rigaud	Hull, Que.	C
Biron, Michel	Mille Isles	Nicolet, Que.	Lib
Bryden, John G.	New Brunswick	Bayfield, N.B.	Lib
Buchanan, John, P.C.	Halifax	Halifax, N.S.	C
Callbeck, Catherine S.	Prince Edward Island	Central Bedeque, P.E.I.	Lib
Carney, Pat, P.C.	British Columbia	Vancouver, B.C.	C
Carstairs, Sharon, P.C.	Manitoba	Victoria Beach, Man.	Lib
Chaput, Maria	Manitoba	Sainte-Anne, Man.	Lib
Christensen, Ione	Yukon Territory	Whitehorse, Y.T.	Lib
Cochrane, Ethel	Newfoundland and Labrador	Port-au-Port, Nfld. & Lab.	C
Comeau, Gerald J.	Nova Scotia	Church Point, N.S.	C
Cook, Joan	Newfoundland and Labrador	St. John's, Nfld. & Lab.	Lib
Cools, Anne C.	Toronto-Centre-York	Toronto, Ont.	Lib
Corbin, Eymard Georges	Grand-Sault	Grand-Sault, N.B.	Lib
Cordy, Jane	Nova Scotia	Dartmouth, N.S.	Lib
Day, Joseph A.	Saint John-Kennebecasis	Hampton, N.B.	Lib
De Bané, Pierre, P.C.	De la Vallière	Montreal, Que.	Lib
Di Nino, Consiglio	Ontario	Downsview, Ont.	C
Doody, C. William	Harbour Main-Bell Island	St. John's, Nfld. & Lab.	PC
Downe, Percy	Charlottetown	Charlottetown, P.E.I.	Lib
Eyton, J. Trevor	Ontario	Caledon, Ont.	C
Fairbairn, Joyce, P.C.	Lethbridge	Lethbridge, Alta.	Lib
Ferretti Barth, Marisa	Repentigny	Pierrefonds, Que.	Lib
Finnerty, Isobel	Ontario	Burlington, Ont.	Lib
Fitzpatrick, Ross	Okanagan-Similkameen	Kelowna, B.C.	Lib
Forrestall, J. Michael	Dartmouth and the Eastern Shore	Dartmouth, N.S.	C
Fraser, Joan Thorne	De Lorimier	Montreal, Que.	Lib
Furey, George	Newfoundland and Labrador	St. John's, Nfld. & Lab.	Lib
Gauthier, Jean-Robert	Ottawa-Vanier	Ottawa, Ont.	Lib
Gill, Aurélien	Wellington	Mashteuiatsh, Pointe-Bleue, Que.	Lib
Grafstein, Jeremiah S.	Metro Toronto	Toronto, Ont.	Lib
Graham, Bernard Alasdair, P.C.	The Highlands	Sydney, N.S.	Lib
Gustafson Leonard J.	Saskatchewan	Macoun, Sask.	C
Harb, Mac	Ontario	Ottawa, Ont.	Lib
Hays, Daniel Phillip, <i>Speaker</i>	Calgary	Calgary, Alta.	Lib
Hervieux-Payette, Celine, P.C.	Bedford	Montreal, Que.	Lib
Hubley, Elizabeth M.	Prince Edward Island	Kensington, P.E.I.	Lib
Jaffer, Mobina S. B.	British Columbia	North Vancouver, B.C.	Lib

Senator	Designation	Post Office Address	Political Affiliation
Johnson, Janis G.	Winnipeg-Interlake	Gimli, Man.	C
Joyal, Serge, P.C.	Kennebec	Montreal, Que.	Lib
Kelleher, James Francis, P.C.	Ontario	Sault Ste. Marie, Ont.	C
Kenny, Colin	Rideau	Ottawa, Ont.	Lib
Keon, Wilbert Joseph	Ottawa	Ottawa, Ont.	C
Kinsella, Noël A.	Fredericton-York-Sunbury	Fredericton, N.B.	C
Kirby, Michael	South Shore	Halifax, N.S.	Lib
Kroft, Richard H.	Manitoba	Winnipeg, Man.	Lib
LaPierre, Laurier L.	Ontario	Ottawa, Ont.	Lib
Lapointe, Jean	Saurel	Magog, Que.	Lib
Lavigne, Raymond	Montarville	Verdun, Que.	Lib
Lawson, Edward M.	Vancouver	Vancouver, B.C.	Lib
LeBreton, Marjory	Ontario	Manotick, Ont.	C
Léger, Viola	Acadie/New Brunswick	Moncton, N.B.	Lib
Losier-Cool, Rose-Marie	Tracadie	Bathurst, N.B.	Lib
Lynch-Staunton, John	Grandville	Georgeville, Que.	C
Maheu, Shirley	Rougemont	Saint-Laurent, Que.	Lib
Mahovlich, Francis William	Toronto	Toronto, Ont.	Lib
Massicotte, Paul J.	De Lanaudière	Mont-Royal, Que.	Lib
Meighen, Michael Arthur	St. Marys	Toronto, Ont.	C
Mercer, Terry M.	Northend Halifax	Caribou River, N.S.	Lib
Merchant, Pana	Saskatchewan	Regina, Sask.	Lib
Milne, Lorna	Peel County	Brampton, Ont.	Lib
Moore, Wilfred P.	Stanhope St./Bluenose	Chester, N.S.	Lib
Morin, Yves	Lauzon	Quebec, Que.	Lib
Munson, Jim	Ottawa/Rideau Canal	Ottawa, Ont.	Lib
Murray, Lowell, P.C.	Pakenham	Ottawa, Ont.	PC
Nolin, Pierre Claude	De Salaberry	Quebec, Que.	C
Oliver, Donald H.	Nova Scotia	Halifax, N.S.	C
Pearson, Landon	Ontario	Ottawa, Ontario	Lib
Pépin, Lucie	Shawinigan	Montreal, Que.	Lib
Phalen, Gerard A.	Nova Scotia	Glance Bay, N.S.	Lib
Pitfield, Peter Michael, P.C.	Ottawa-Vanier	Ottawa, Ont.	Ind
Plamondon, Madeleine	The Laurentides	Shawinigan, Que.	Ind
Poulin, Marie-P.	Nord de l'Ontario/Northern Ontario	Ottawa, Ont.	Lib
Poy, Vivienne	Toronto	Toronto, Ont.	Lib
Pud'homme, Marcel, P.C.	La Salle	Montreal, Que.	Ind
Piquette, Pierrette	New Brunswick	Edmundston, N.B.	Lib
Pivest, Jean-Claude	Stadacona	Quebec, Que.	C
Robertson, Brenda Mary	Riverview	Shediac, N.B.	C
Robichaud, Fernand, P.C.	New Brunswick	Saint-Louis-de-Kent, N.B.	Lib
Roche, Douglas James	Edmonton	Edmonton, Alta.	Ind
Rompkey, William H., P.C.	Labrador	North West River, Labrador, Nfld. & Lab.	Lib
Rossiter, Eileen	Prince Edward Island	Charlottetown, P.E.I.	C
Rt. Germain, Gerry, P.C.	Langley-Pemberton-Whistler	Maple Ridge, B.C.	C
Ribbeston, Nick G.	Northwest Territories	Fort Simpson, N.W.T.	Lib
Rmith, David P., P.C.	Cobourg	Toronto, Ont.	Lib
Rparrow, Herbert O.	Saskatchewan	North Battleford, Sask.	Lib
Rpivak, Mira	Manitoba	Winnipeg, Man.	Ind
Rollery, Peter Alan	Bloor and Yonge	Toronto, Ont.	Lib
Ratton, Terrance R.	Red River	St. Norbert, Man.	C
Rkachuk, David	Saskatchewan	Saskatoon, Sask.	C
Rrenholme Counsell, Marilyn	New Brunswick	Sackville, N.B.	Lib
Rvatt, Charlie	Inkerman	Kuujuuaq, Que.	Lib

SENATORS OF CANADA
BY PROVINCE AND TERRITORY
 (April 1, 2004)

ONTARIO—24

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Lowell Murray, P.C.	Pakenham	Ottawa
2 Peter Alan Stollery	Bloor and Yonge	Toronto
3 Peter Michael Pitfield, P.C.	Ottawa-Vanier	Ottawa
4 Jerahmiel S. Grafstein	Metro Toronto	Toronto
5 Anne C. Cools	Toronto-Centre-York	Toronto
6 Colin Kenny	Rideau	Ottawa
7 Norman K. Atkins	Markham	Toronto
8 Consiglio Di Nino	Ontario	Downsview
9 James Francis Kelleher, P.C.	Ontario	Sault Ste. Marie
10 John Trevor Eyton	Ontario	Caledon
11 Wilbert Joseph Keon	Ottawa	Ottawa
12 Michael Arthur Meighen	St. Marys	Toronto
13 Marjory LeBreton	Ontario	Manotick
14 Landon Pearson	Ontario	Ottawa
15 Jean-Robert Gauthier	Ottawa-Vanier	Ottawa
16 Lorna Milne	Peel County	Brampton
17 Marie-P. Poulin	Northern Ontario	Ottawa
18 Francis William Mahovlich	Toronto	Toronto
19 Vivienne Poy	Toronto	Toronto
20 Isobel Finnerty	Ontario	Burlington
21 Laurier L. LaPierre	Ontario	Ottawa
22 David P. Smith, P.C.	Cobourg	Toronto
23 Mac Harb	Ontario	Ottawa
24 Jim Munson	Ottawa/Rideau Canal	Ottawa

SENATORS BY PROVINCE AND TERRITORY

QUEBEC—24

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Charlie Watt	Inkerman	Kuujuuaq
2 Pierre De Bané, P.C.	De la Vallière	Montreal
3 Gérald-A. Beaudoin	Rigaud	Hull
4 John Lynch-Staunton	Grandville	Georgeville
5 Jean-Claude Rivest	Stadacona	Quebec
6 Marcel Prud'homme, P.C.	La Salle	Montreal
7 W. David Angus	Alma	Montreal
8 Pierre Claude Nolin	De Salaberry	Quebec
9 Lise Bacon	De la Durantaye	Laval
10 Céline Hervieux-Payette, P.C.	Bedford	Montreal
11 Shirley Maheu	Rougemont	Ville de Saint-Laurent
12 Lucie Pépin	Shawinigan	Montreal
13 Marisa Ferretti Barth	Repentigny	Pierrefonds
14 Serge Joyal, P.C.	Kennebec	Montreal
15 Joan Thorne Fraser	De Lorimier	Montreal
16 Aurélien Gill	Wellington	Mashteuiatsh, Pointe-Bleue
17 Yves Morin	Lauzon	Quebec
18 Jean Lapointe	Saurel	Magog
19 Michel Biron	Milles Isles	Nicolet
20 Raymond Lavigne	Montarville	Verdun
21 Paul J. Massicotte	De Lanaudière	Mont-Royal
22 Madeleine Plamondon	The Laurentides	Shawinigan
23		
24		

SENATORS BY PROVINCE-MARITIME DIVISION

NOVA SCOTIA—10

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Bernard Alasdair Graham, P.C.	The Highlands	Sydney
2 Michael Kirby	South Shore	Halifax
3 Gerald J. Comeau	Nova Scotia	Church Point
4 Donald H. Oliver	Nova Scotia	Halifax
5 John Buchanan, P.C.	Halifax	Halifax
6 J. Michael Forrestall	Dartmouth and Eastern Shore	Dartmouth
7 Wilfred P. Moore	Stanhope St./Bluenose	Chester
8 Jane Cordy	Nova Scotia	Dartmouth
9 Gerard A. Phalen	Nova Scotia	Glace Bay
10 Terry M. Mercer	Northend Halifax	Caribou River

NEW BRUNSWICK—10

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Eymard Georges Corbin	Grand-Sault	Grand-Sault
2 Brenda Mary Robertson	Riverview	Shediac
3 Noël A. Kinsella	Fredericton-York-Sunbury	Fredericton
4 John G. Bryden	New Brunswick	Bayfield
5 Rose-Marie Losier-Cool	Tracadie	Bathurst
6 Fernand Robichaud, P.C.	Saint-Louis-de-Kent	Saint-Louis-de-Kent
7 Viola Léger	Acadie/New Brunswick	Moncton
8 Joseph A. Day	Saint John-Kennebecasis	Hampton
9 Pierrette Ringuette	New Brunswick	Edmundston
10 Marilyn Trenholme Counsell	New Brunswick	Sackville

PRINCE EDWARD ISLAND—4

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Eileen Rossiter	Prince Edward Island	Charlottetown
2 Catherine S. Callbeck	Prince Edward Island	Central Bedeque
3 Elizabeth M. Hubley	Prince Edward Island	Kensington
4 Percy Downe	Charlottetown	Charlottetown

SENATORS BY PROVINCE-WESTERN DIVISION

MANITOBA—6

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Mira Spivak	Manitoba	Winnipeg
2 Janis G. Johnson	Winnipeg-Interlake	Gimli
3 Terrance R. Stratton	Red River	St. Norbert
4 Sharon Carstairs, P.C.	Manitoba	Victoria Beach
5 Richard H. Kroft	Manitoba	Winnipeg
6 Maria Chaput	Manitoba	Sainte-Anne

BRITISH COLUMBIA—6

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Edward M. Lawson	Vancouver	Vancouver
2 Jack Austin, P.C.	Vancouver South	Vancouver
3 Pat Carney, P.C.	British Columbia	Vancouver
4 Gerry St. Germain, P.C.	Langley-Pemberton-Whistler	Maple Ridge
5 Ross Fitzpatrick	Okanagan-Similkameen	Kelowna
6 Mobina S.B. Jaffer	British Columbia	North Vancouver

SASKATCHEWAN—6

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Herbert O. Sparrow	Saskatchewan	North Battleford
2 A. Raynell Andreychuk	Regina	Regina
3 Leonard J. Gustafson	Saskatchewan	Macoun
4 David Tkachuk	Saskatchewan	Saskatoon
5 Pana Merchant	Saskatchewan	Regina
6

ALBERTA—6

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Daniel Phillip Hays, <i>Speaker</i>	Calgary	Calgary
2 Joyce Fairbairn, P.C.	Lethbridge	Lethbridge
3 Douglas James Roche	Edmonton	Edmonton
4 Tommy Banks	Alberta	Edmonton
5
6

SENATORS BY PROVINCE AND TERRITORY

NEWFOUNDLAND AND LABRADOR—6

Senator	Designation	Post Office Address
THE HONOURABLE		
1 C. William Doody	Harbour Main-Bell Island	St. John's
2 Ethel Cochrane	Newfoundland and Labrador	Port-au-Port
3 William H. Rompkey, P.C.	Labrador	North West River, Labrador
4 Joan Cook	Newfoundland and Labrador	St. John's
5 George Furey	Newfoundland and Labrador	St. John's
6 George S. Baker, P.C.	Newfoundland and Labrador	Gander

NORTHWEST TERRITORIES—1

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Nick G. Sibbeston	Northwest Territories	Fort Simpson

NUNAVUT—1

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Willie Adams	Nunavut	Rankin Inlet

YUKON TERRITORY—1

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Ione Christensen	Yukon Territory	Whitehorse

ALPHABETICAL LIST OF STANDING, SPECIAL AND JOINT COMMITTEES

(As of April 1, 2004)

*Ex Officio Member

ABORIGINAL PEOPLES

Chair: Honourable Senator Sibbeston

Deputy Chair: Honourable Senator Johnson

Honourable Senators:

Austin, (or Rompkey)	Christensen, Gill, Johnson, Léger,	* Lynch-Staunton, (or Kinsella) Pearson, Mercer,	Sibbeston, St. Germain, Tkachuk, Trenholme Counsell.
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Original Members as nominated by the Committee of Selection

*Austin (or Rompkey), Carney, Chaput, Christensen, Gill, Johnson, Léger,

*Lynch-Staunton (or Kinsella), Pearson, Mercer, Sibbeston, St. Germain, Tkachuk, Trenholme Counsell.

AGRICULTURE AND FORESTRY

Chair: Honourable Senator Oliver

Deputy Chair: Honourable Senator Fairbairn

Honourable Senators:

Austin, (or Rompkey)	Gustafson, Hubley, LaPierre, Lawson,	* Lynch-Staunton, (or Kinsella) Mercer, Oliver,	Ringuette, St. Germain, Sparrow, Tkachuk.
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Original Members as nominated by the Committee of Selection

*Austin (or Rompkey), Callbeck, Day, Fairbairn, Fitzpatrick, Gustafson, Hubley, LaPierre,

*Lynch-Staunton (or Kinsella), Oliver, Ringuette, St. Germain, Sparrow, Tkachuk.

BANKING, TRADE AND COMMERCE

Chair: Honourable Senator Kroft

Deputy Chair: Honourable Senator Tkachuk

Honourable Senators:

Angus, Austin, (or Rompkey)	Fitzpatrick, Harb, Hervieux-Payette, Kelleher,	Kroft, * Lynch-Staunton, (or Kinsella) Massicotte,	Meighen, Moore, Prud'homme, Tkachuk.
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Original Members as nominated by the Committee of Selection

Angus, *Austin (or Rompkey), Biron, Fitzpatrick, Harb, Hervieux-Payette, Kelleher, Kroft,

*Lynch-Staunton (or Kinsella), Massicotte, Meighen, Moore, Prud'homme, Tkachuk.

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

Chair: Honourable Senator Banks

Deputy Chair: Honourable Senator Spivak

Honourable Senators:

* Austin, (or Rompkey)	Buchanan, Christensen,	Finnerty, Kenny,	Merchant, Milne,
Baker, Banks,	Carney, Cochrane,	* Lynch-Staunton, (or Kinsella)	Spivak.

Original Members as nominated by the Committee of Selection

* Austin (or Rompkey), Baker, Banks, Buchanan, Christensen, Cochrane, Eyton, Finnerty, Kenny, * Lynch-Staunton (or Kinsella), Merchant, Milne, Spivak, Watt.

FISHERIES AND OCEANS

Chair: Honourable Senator Comeau

Deputy Chair: Honourable Senator Cook

Honourable Senators:

Adams,	Comeau,	* Lynch-Staunton,	Phalen,
* Austin, (or Rompkey)	Cook,	(or Kinsella)	Robichaud,
Cochrane,	Hubley,	Mahovlich,	Trenholme Counsell,
	Johnson,	Meighen,	Watt.

Original Members as nominated by the Committee of Selection

Adams, * Austin (or Rompkey), Cochrane, Comeau, Cook, Hubley, Johnson, * Lynch-Staunton (or Kinsella), Mahovlich, Meighen, Phalen, Robichaud, Trenholme Counsell, Watt.

FOREIGN AFFAIRS

Chair: Honourable Senator Stollery

Deputy Chair: Honourable Senator Di Nino

Honourable Senators:

Andreychuk,	Corbin,	Grafstein,	Mahovlich,
* Austin, (or Rompkey)	De Bané,	Graham,	Poy,
Carney,	Di Nino,	* Lynch-Staunton, (or Kinsella)	Sparrow,
	Eyton		Stollery.

Original Members as nominated by the Committee of Selection

Andreychuk, * Austin (or Rompkey), Carney, Corbin, De Bané, Di Nino, Eyton, Grafstein, Graham, * Lynch-Staunton (or Kinsella), Mahovlich, Poy, Sparrow, Stollery.

HUMAN RIGHTS

Chair: Honourable Senator Maheu

Deputy Chair: Honourable Senator Rossiter

Honourable Senators:

Austin, (or Rompkey)	Jaffer, LaPierre,	Maheu, Plamondon,	Rivest, Rossiter.
Beaudoin, Ferretti Barth,	* Lynch-Staunton, (or Kinsella)	Poy,	

Original Members as nominated by the Committee of Selection

*Austin (or Rompkey), Beaudoin, Ferretti Barth, Jaffer, LaPierre,
*Lynch-Staunton (or Kinsella), Maheu, Munson, Poy, Rivest, Rossiter.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

Chair: Honourable Senator Bacon

Interim Deputy Chair: Honourable Senator Robertson

Honourable Senators:

Atkins, Austin, (or Rompkey)	Cook, De Bané, Eyton,	Gill, Jaffer, Kinsella,	Massicotte, Munson, Poulin,
Bacon, Bryden,	Gauthier,	* Lynch-Staunton, (or Kinsella)	Robertson, Stratton.

Original Members as nominated by the Committee of Selection

Atkins, *Austin (or Rompkey), Bacon, Bryden, Cook, De Bané, Eyton, Gauthier, Gill,
Jaffer, Kinsella, *Lynch-Staunton (or Kinsella), Massicotte, Munson, Poulin, Robertson, Stratton.

LEGAL AND CONSTITUTIONAL AFFAIRS

Chair: Honourable Senator Furey

Deputy Chair: Honourable Senator Beaudoin

Honourable Senators:

Andreychuk, Austin, (or Rompkey)	Bryden, Buchanan, Cools,	Jaffer, Joyal,	Nolin, Pearson,
Baker, Beaudoin,	Furey,	* Lynch-Staunton, (or Kinsella)	Smith.

Original Members as nominated by the Committee of Selection

Andreychuk, *Austin (or Rompkey), Baker, Beaudoin, Bryden, Buchanan, Cools, Furey, Jaffer,
Joyal, *Lynch-Staunton (or Kinsella), Nolin, Pearson, Smith.

LIBRARY OF PARLIAMENT (Joint)

Joint Chair: Morin

Vice-Chair:

Honourable Senators:

Forrestall,
Kinsella,

Lapointe,

Morin,

Poy.

*Original Members agreed to by Motion of the Senate**Forrestall, Kinsella, Lapointe, Morin, Poy.*

NATIONAL FINANCE

Chair: Honourable Senator Murray

Deputy Chair: Honourable Senator Day

Honourable Senators:

* Austin,
(or Rompkey)
Biron,
Comeau,Day,
Doody,
Downe,
Ferretti Barth,Finnerty,
Furey,
* Lynch-Staunton,
(or Kinsella)Murray,
Oliver,
Ringuelette.*Original Members as nominated by the Committee of Selection*** Austin (or Rompkey), Biron, Comeau, Day, Doody, Downe, Ferretti Barth, Finnerty,
Furey, Gauthier, * Lynch-Staunton (or Kinsella), Murray, Oliver, Ringuelette.*

NATIONAL SECURITY AND DEFENCE

Chair: Honourable Senator Kenny

Deputy Chair: Honourable Senator Forrestall

Honourable Senators:

Atkins,
* Austin,
(or Rompkey)
Banks,Buchanan,
Cordy,
Day,Kenny,
* Lynch-Staunton,
(or Kinsella)Meighen,
Munson,
Smith.*Original Members as nominated by the Committee of Selection**Atkins, * Austin (or Rompkey), Banks, Cordy, Day, Forrestall, Kenny,
* Lynch-Staunton (or Kinsella), Meighen, Munson, Smith.*

VETERANS AFFAIRS

(Subcommittee of National Security and Defence)

Chair: Honourable Senator Meighen

Deputy Chair: Honourable Senator Day

Honourable Senators:

Atkins,	Banks,	* Lynch-Staunton,	Meighen.
Austin,	Day,	(or Kinsella)	
(or Rompkey)	Kenny,		

OFFICIAL LANGUAGES

Chair: Honourable Senator Chaput

Deputy Chair: Honourable Senator Keon

Honourable Senators:

Austin,	Chaput,	Keon,	* Lynch-Staunton,
(or Rompkey)	Comeau,	Lapointe,	(or Kinsella)
Beaudoin,	Gauthier,	Léger,	Maheu,
			Munson.

Original Members agreed to by Motion of the Senate

*Austin (or Rompkey), Beaudoin, Chaput, Comeau, Gauthier, Keon, Lapointe, Léger, *Lynch-Staunton (or Kinsella), Maheu, Munson.

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

Chair: Honourable Senator Milne

Deputy Chair: Honourable Senator Andreychuk

Honourable Senators:

Andreychuk,	Fraser,	Losier-Cool,	Ringuette,
*Austin,	Grafstein,	* Lynch-Staunton,	Robertson,
(or Rompkey)	Harb,	(or Kinsella)	Smith,
Di Nino,	Hubley,	Milne,	Stratton.
Downe,	Joyal,	Murray,	

Original Members as nominated by the Committee of Selection

Andreychuk, *Austin (or Rompkey), Di Nino, Downe, Fraser, Grafstein, Harb, Hubley, Joyal, Losier-Cool, *Lynch-Staunton (or Kinsella), Milne, Murray, Ringuette, Robertson, Smith, Stratton.

SCRUTINY OF REGULATIONS (Joint)

Joint Chair: Honourable Hervieux-Payette

Vice-Chair:

Honourable Senators:

Biron,	Hervieux-Payette,	Lavigne,	Nolin.
Harb,	Kelleher,	Moore,	

Original Members as agreed to by Motion of the Senate

Biron, Harb, Hervieux-Payette, Kelleher, Lavigne, Moore, Nolin.

SELECTION

Chair: Honourable Senator Losier-Cool

Deputy Chair: Honourable Senator Stratton

Honourable Senators:

* Austin,	Fairbairn,	Losier-Cool,	Rompkey,
(or Rompkey)	Kinsella,	* Lynch-Staunton,	Stratton,
Bacon,	LeBreton,	(or Kinsella)	Tkachuk.
Carstairs,			

Original Members agreed to by Motion of the Senate

**Austin (or Rompkey), Bacon, Carstairs, Fairbairn, Kinsella, LeBreton, Losier-Cool, *Lynch-Staunton (or Kinsella) Rompkey, Stratton, Tkachuk.*

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

Chair: Honourable Senator Kirby

Deputy Chair: Honourable Senator LeBreton

Honourable Senators:

* Austin,	Cordy,	LeBreton,	Robertson,
(or Rompkey)	Fairbairn,	* Lynch-Staunton,	Roche,
Callbeck,	Keon,	(or Kinsella)	Rossiter
Cook,	Kirby,	Morin,	Trenholme-Counsell.

Original Members as nominated by the Committee of Selection

**Austin (or Rompkey), Callbeck, Cook, Cordy, Fairbairn, Keon, Kirby, LeBreton, Léger, *Lynch-Staunton (or Kinsella), Morin, Robertson, Roche, Rossiter.*

TRANSPORT AND COMMUNICATIONS

Chair: Honourable Senator Fraser

Deputy Chair: Honourable Senator Gustafson

Honourable Senators:

Andreychuk,	Day,	LaPierre,	Munson,
Austin,	Fraser,	* Lynch-Staunton,	Phalen,
(or Rompkey)	Graham,	(or Kinsella)	Stratton,
Corbin,	Gustafson,	Mercer,	Tkachuk.

Original Members as nominated by the Committee of Selection

*Adams, *Austin (or Rompkey), Corbin, Day, Eyton, Fraser, Graham, Gustafson, Johnson, LaPierre, *Lynch-Staunton (or Kinsella), Merchant, Phalen, Spivak.*

**THE SENATE OF CANADA
PROGRESS OF LEGISLATION**

(3rd Session, 37th Parliament)

Thursday, April 1, 2004

**GOVERNMENT BILLS
(SENATE)**

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
GOVERNMENT BILLS (HOUSE OF COMMONS)									
No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
C-3	An Act to amend the Canada Elections Act and the Income Tax Act	04/04/01							
C-4	An Act to amend the Parliament of Canada Act (Ethics Commissioner and Senate Ethics Officer) and other Acts in consequence	04/02/11	04/02/26	Rules, Procedures and the Rights of Parliament	04/03/23	0	04/03/30	04/03/31	7/04
C-5	An Act respecting the effective date of the representation order of 2003	04/02/11	04/02/20	Legal and Constitutional Affairs	04/02/26	0	04/03/10	04/03/11	1/04
C-6	An Act respecting assisted human reproduction and related research	04/02/11	04/02/13	Social Affairs, Science and Technology	04/03/09	0	04/03/11	04/03/29	2/04
C-7	An Act to amend certain Acts of Canada, and to enact measures for implementing the Biological and Toxin Weapons Convention, in order to enhance public safety	04/02/11	04/03/11	Transport and Communications	04/04/01	0			
C-8	An Act to establish the Library and Archives of Canada, to amend the Copyright Act and to amend certain Acts in consequence	04/02/11	04/02/18	Social Affairs, Science and Technology	04/03/11	3	04/03/29		
C-13	An Act to amend the Criminal Code (capital markets fraud and evidence-gathering)	04/02/12	04/02/24	Banking, Trade and Commerce	04/03/11	0	04/03/22	04/03/29	3/04
C-14	An Act to amend the Criminal Code and other Acts	04/02/12	04/02/25	Legal and Constitutional Affairs	04/04/01	0			
C-16	An Act respecting the registration of information relating to sex offenders, to amend the Criminal Code and to make consequential amendments to other Acts	04/02/12	04/02/19	Legal and Constitutional Affairs	04/03/25	0	04/04/01	04/04/01	10/04
C-17	An Act to amend certain Acts	04/02/12	04/03/09	Legal and Constitutional Affairs					
C-18	An Act respecting equalization and authorizing the Minister of Finance to make certain payments related to health	04/03/10	04/03/22	National Finance	04/03/23	0	04/03/25	04/03/29	4/04
C-20	An Act to change the names of certain electoral districts	04/02/23	04/03/09	Legal and Constitutional Affairs					

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
C-21	An Act to amend the Customs Tariff	04/03/24	04/04/01	Banking, Trade and Commerce					
C-22	An Act to amend the Criminal Code (cruelty to animals)	04/03/09							
C-24	An Act to amend the Parliament of Canada Act	04/03/22	04/03/29	Social Affairs, Science and Technology					
C-26	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2004	04/03/22	04/03/25	—	—	—	04/03/26	04/03/31	5/04
C-27	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2005	04/03/22	04/03/25	National Finance	04/03/30	0	04/03/30	04/03/31	8/04

COMMONS PUBLIC BILLS

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
C-212	An Act respecting user fees	04/02/03	04/02/11	National Finance	04/02/26	10	04/03/11	04/03/31	6/04
C-249	An Act to amend the Competition Act	04/02/03	04/04/01	Banking, Trade and Commerce					
C-250	An Act to amend the Criminal Code (hate propaganda)	04/02/03	04/02/20	Legal and Constitutional Affairs	04/03/25	0			
C-260	An Act to amend the Hazardous Products Act (fire-safe cigarettes)	04/02/03	04/02/23	Energy, the Environment and Natural Resources	04/03/10	0	04/03/30	04/03/31	9/04
C-300	An Act to change the names of certain electoral districts	04/02/03							

SENATE PUBLIC BILLS

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
S-2	An Act to prevent unsolicited messages on the Internet (Sen. Oliver)	04/02/03	04/03/23	Transport and Communications					
S-3	An Act to amend the Constitution Act, 1867 and the Parliament of Canada Act (Speakership of the Senate) (Sen. Oliver)	04/02/03		subject-matter 04/03/11 Legal and Constitutional Affairs					
S-4	An Act to amend the Official Languages Act (promotion of English and French) (Sen. Gauthier)	04/02/03	04/02/26	Official Languages	04/03/09	0	04/03/11		
S-5	An Act to protect heritage lighthouses (Sen. Forrestal)	04/02/03	04/02/05	—	—	—	04/02/05		
S-6	An Act to amend the Criminal Code (lottery schemes) (Sen. Lapointe)	04/02/04	04/02/11	Legal and Constitutional Affairs					

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
S-7	An Act respecting the effective date of the representation order of 2003 (Sen. Kinsella)	04/02/04	Bill withdrawn pursuant to Speaker's Ruling 04/03/23						
S-8	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	04/02/05	04/02/12	Energy, the Environment and Natural Resources	04/03/10	0	04/03/11		
S-9	An Act to honour Louis Riel and the Métis People (Sen. Chalifoux)	04/02/05							
S-10	An Act to amend the Marriage (Prohibited Degrees) Act and the Interpretation Act in order to affirm the meaning of marriage (Sen. Cools)	04/02/10							
S-11	An Act to repeal legislation that has not been brought into force within ten years of receiving royal assent (Sen. Banks)	04/02/11	04/03/09	Legal and Constitutional Affairs					
S-12	An Act to amend the Royal Canadian Mounted Police Act (modernization of employment and labour relations) (Sen. Nolin)	04/02/12							
S-13	An Act to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions (Sen. Stratton)	04/02/19							
S-14	An Act to amend the Agreement on Internal Trade Implementation Act (Sen. Kelleher, P.C.)	04/03/10		subject-matter 04/03/22 Banking, Trade and Commerce					
S-16	An Act to amend the Copyright Act (Sen. Day)	04/03/11	04/03/23	Social Affairs, Science and Technology					
S-17	An Act to amend the Citizenship Act (Sen. Kinsella)	04/03/25	04/04/01	Social Affairs, Science and Technology					
PRIVATE BILLS									
No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
S-15	An Act to amend the Act of incorporation of Queen's Theological College (Sen. Murray, P.C.)	04/03/10	04/03/11	Legal and Constitutional Affairs	04/03/25	0	04/03/25	04/04/01	

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CANADA

Debates of the Senate

3rd SESSION

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37th PARLIAMENT

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VOLUME 141

•

NUMBER 30

OFFICIAL REPORT
(HANSARD)

Tuesday, April 20, 2004



THE HONOURABLE LUCIE PÉPIN
SPEAKER *PRO TEMPORE*



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(Daily index of proceedings appears at back of this issue).

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THE SENATE

Tuesday, April 20, 2004

The Senate met at 2 p.m., the Speaker *pro tempore* in the Chair.

Prayers.

SENATORS' STATEMENTS

HOLOCAUST MEMORIAL DAY

Hon. Mobina S. B. Jaffer: Hate crimes: Canadians show solidarity in condemning hate crimes against all people of all faiths.

Honourable senators, in the early morning hours of April 5, 2004, the library of the United Talmud Torah school in Montreal was set ablaze. Anti-Semitic leaflets were reportedly left at the scene of the fire, leaving little doubt that this crime was one motivated by hatred.

This attack followed an equally deplorable spate of racist attacks in Toronto, where two Jewish schools and a synagogue were vandalized and a Jewish cemetery was desecrated. The Al-madhi Islamic Centre in Pickering was also set on fire and vandalized, showing that all religious and ethnic groups are vulnerable to this kind of attack. Jewish homes were spray-painted with swastikas, a chilling reminder of the horrors of the Holocaust, so close to our National Holocaust Memorial Day, Yom HaShoah, which we marked this past Sunday.

Honourable senators, Yom HaShoah is an opportunity for Canadians of all religious and cultural backgrounds to reflect on the horrors of the Holocaust and to remind ourselves of the devastating effects of religious and ethnic hatred on our communities and our society. As we reflect on the horrors of the past and compare them with more recent acts of hatred, we should take the opportunity to reaffirm our Canadian values of harmony and multiculturalism and reaffirm our commitment to protect all Canadians from those who would commit crimes of racist violence and hate.

Honourable senators, I know that all of us here will join together with all Canadians in condemning these kinds of attacks regardless of who is targeted and continue to fight for our Canadian values of multiculturalism, openness and harmony.

Hon. Senators: Hear, hear!

NATIONAL VOLUNTEER WEEK

Hon. Ethel Cochrane: Honourable senators, the week of April 18 to April 24 is National Volunteer Week. Therefore, I rise today to pay tribute to the roughly 6.5 million people across Canada who give freely of their time and energy for the betterment of others. Without their dedication and hard work, many areas of our society, such as the arts and culture sector or sports and recreation groups, would not function as well, or perhaps at all.

In the year 2000, for example, volunteers contributed approximately 1 billion hours of their time. That is an amazing contribution, especially when one considers that those hours are equivalent to about 550,000 full-time, year-round jobs.

The theme of this year's celebration is "Volunteers grow community!" More than 5,000 events are scheduled to take place across the country this week to recognize the contribution volunteers have made to almost every aspect of our society. It is important that we continue to use National Volunteer Week to celebrate the role of volunteers in our communities and to promote charitable involvement and giving.

We must encourage people of all ages to get involved, not just for the overall benefit of society, but for the benefit of the participant as well. Volunteers often build and strengthen existing skills through their philanthropy and explore areas of personal interest. However, other advantages are less tangible.

There is an old saying that it is better to give than to receive. Volunteers put those words into practice every single day. When one gives of himself or herself as a volunteer, the personal satisfaction and the pride that the volunteer feels is immeasurable. It is my hope that charitable organizations across the country will gain many new recruits this week who will experience these feelings first-hand.

Through teaching, fundraising, counselling, organizing and countless other activities, Canada's volunteers help grow their communities by making them a better place to live.

Honourable senators, during this National Volunteer Week, let us say a heart-felt thank you in response.

Hon. Senators: Hear, hear!

[Translation]

FRANCO-ONTARIAN FLAG

Hon. Marie-P. Poulin: Honourable senators, a few days ago the Franco-Ontarian flag was officially raised in front of the Lycée Claudel building in Ottawa. The event was held in the presence of His Excellency Mr. Philippe Guelluy, Ambassador of France to Canada. Also in attendance were Mr. Jean Poirier and Mr. Brian Beauchamp, presidents of the regional ACFOs; Mr. Alain Landry, chairman of the Lycée Claudel board of directors; the members of the board of directors; and Ms. Jacqueline Egon, the lycée's principal.

The teaching staff and more than 800 students, boys and girls registered at Lycée Claudel, also attended the ceremony.

As the senator representing Northern Ontario, and as President of the Fédération Canada-France, I was proud to attend this ceremony.

Let us not forget that the French language and culture have been present in Ontario for 350 years. The first French speakers to settle in Ontario were the missionaries who established the mission of Sainte-Marie among the Hurons in 1639.

The white and green Franco-Ontarian flag, decorated with the fleur de lys and the trillium, reflects the history and hope of the francophone community of Ontario. It was officially raised for the first time on September 25, 1975 at Laurentian University in Sudbury.

• (1410)

Congratulations to all those who took part in this initiative by Lycée Claudel, which recognizes the richness, contribution and value of the French language and culture in Ontario.

[English]

VISIT OF DALAI LAMA

EMPHASIS ON SPIRITUAL AND CIVIC MATTERS

Hon. Jim Munson: Honourable senators, I rise today on the occasion of the visit of His Holiness, the Dalai Lama, to Canada this week. I want to praise the Prime Minister for agreeing to see the Dalai Lama. This is a good thing, but I am puzzled as to why this meeting has been placed into a so-called spiritual frame. I am sure that when the Pope or the Archbishop of Canterbury meets with political leaders, the discussion covers more than just spirituality. In this complex global village, the Pope's views on many issues, such as the horrible violence in the Middle East, are well received and respected in political circles. History has taught us that the views of religious leaders go beyond the spiritual and very much into everyday realities.

On a personal level as a reporter in the late 1980s and early 1990s, I witnessed the brutality of the Chinese police in the Tibetan capital, Lhasa. I watched as my cameraman videotaped the Chinese police beating defenceless monks. I then listened in the Jokhang Temple as the monks told their stories of harassment by the Chinese authorities. As a result of these experiences, I had the not-so-welcome opportunity of spending a number of hours in a Chinese jail in Lhasa. We were ordered to give up the tapes. Fortunately, the authorities did not get all of them and we were able to transmit their story to Canadians.

Fifteen years have passed since my experiences in Tibet, and I am disappointed to hear that our Department of Foreign Affairs has recommended that when meeting with the Dalai Lama, political leaders should bear in mind that "emphasis should be on the spiritual and civic matters as opposed to political issues which might appear to confer recognition of sovereignty." This visit is described as an extremely sensitive political issue.

Honourable senators, there is a reality check here. The Dalai Lama has met presidents, prime ministers, kings and queens around the world, while Canada, as a sovereign nation, is worried about upsetting the authorities in Beijing. It has been argued by some that meeting the Dalai Lama may affect our trade relations with China, which are, by the way, very much in China's favour.

[Senator Poulin]

Honourable senators, this is nothing short of diplomatic blackmail. There should not be a price tag on human freedom. Canada and China have forged a great friendship over the last few decades, but I do not think we need any lessons on how to treat a guest in our own house.

I stand here today as a witness to history, as a person who has some understanding of the issue of human rights. I urge others to stand up and listen to whatever message the Dalai Lama will deliver. At this time, the issue is not so much about recognizing the autonomy of Tibet; it is about first recognizing the autonomy of the mind and the fundamental right to speak it.

ROUTINE PROCEEDINGS

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO ESTABLISH MANDATE OF STANDING COMMITTEE ON INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION IN SELECTION OF ETHICS OFFICER

Hon. Serge Joyal: Honourable Senators, I give notice that, at the next sitting of the Senate, I will move:

That the Standing Committee on Rules, Procedures and the Rights of Parliament be authorized to review rule 86(1)(g) and the mandate of the Standing Committee on Internal Economy, Budgets and Administration in order to provide it with a role in the selection of the Senate Ethics Officer and any successor to that position;

That the Standing Committee on Internal Economy, Budgets and Administration or a subcommittee of that Committee, that is made up of at least one representative from each recognized party, be empowered to establish and follow measures to identify suitable candidates to be the Senate Ethics Officer;

That these measures include:

- a) the determination of selection criteria;
- b) the dissemination of advertisements to solicit applicants for the position;
- c) the evaluation of applicants through a professional agency;
- d) the preparation of a short list;
- e) the review of the short listed applicants prior to interviews; and
- f) the recommendation of the selected candidate to the Senate; and

That the process and guidelines to be followed by the Standing Committee on Internal Economy, Budgets and Administration in determining a suitable candidate for the position of the Senate Ethics Officer be included as an Appendix to the *Rules of the Senate*.

NEED FOR NATIONAL SECURITY POLICY

NOTICE OF MOTION TO AUTHORIZE NATIONAL SECURITY AND DEFENCE COMMITTEE TO EXTEND DATE OF FINAL REPORT

Hon. Colin Kenny: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That, notwithstanding the Order of the Senate adopted on February 13, 2004, the date for the final report by the Standing Senate Committee on National Security and Defence on the need for a national security policy for Canada be extended from June 30, 2004, to September 30, 2005.

FOREIGN AFFAIRS

MOTION TO AUTHORIZE COMMITTEE TO HOLD JOINT SESSION WITH HOUSE OF COMMONS STANDING COMMITTEE ON FOREIGN AFFAIRS AND INTERNATIONAL TRADE TO MEET WITH DALAI LAMA—DEBATE ADJOURNED

Hon. Consiglio Di Nino: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I move:

That the Standing Senate Committee on Foreign Affairs be authorized to join the Standing Committee on Foreign Affairs and International Trade of the House of Commons for a joint meeting in order to meet with His Holiness the Dalai Lama and his delegation; and

That the Committee be authorized to meet at 3:30 p.m. on Thursday, April 22, 2004, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

The Hon. the Speaker pro tempore: Is leave granted, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Eymard G. Corbin: May we have an explanation?

Senator Di Nino: As honourable senators know, His Holiness has undertaken a historic visit that includes three cities. He is in Vancouver today, will be in Ottawa until Saturday and will then travel to Toronto for 11 days of "kalachakra" teachings, or teachings of peace. He will be in Ottawa for a short time and the foreign affairs committees of the Senate and the other place have extended an invitation to His Holiness to speak to us about peace, compassion and human rights from a foreign perspective in respect of what is happening in the world today.

• (1420)

The chair of the committee told me that he spoke with my colleague regarding this matter and I certainly was under the impression that he did so as a member of the committee. The expectation is that we will receive His Holiness and hear his opinions on the world issues of peace, compassion and human rights.

On motion of Senator Corbin, debate adjourned.

STUDY ON VETERANS' SERVICES AND BENEFITS, COMMEMORATIVE ACTIVITIES AND CHARTER

NOTICE OF MOTION TO AUTHORIZE NATIONAL SECURITY AND DEFENCE SUBCOMMITTEE ON VETERANS AFFAIRS TO EXTEND DATE OF FINAL REPORT

Hon. Michael A. Meighen: Honourable senators, I give notice that at the next setting of the Senate, I will move:

That, notwithstanding the Order of the Senate adopted on February 26, 2004, the date for the final report by the Standing Senate Committee on National Security and Defence on Veterans' Services and Benefits, Commemorative Activities and Charter be extended from June 30, 2004 to September 30, 2005.

[Translation]

OFFICIAL LANGUAGES

BILINGUAL STATUS OF CITY OF OTTAWA— PRESENTATION OF PETITION

Hon. Jean-Robert Gauthier: Honourable senators, pursuant to rule 4(h) of the *Rules of the Senate*, I have the honour to table petitions signed by 37 people asking that Ottawa, the capital of Canada, be declared a bilingual city and the reflection of the country's linguistic duality.

The petitioners pray and request that Parliament consider the following:

That the Canadian Constitution provides that English and French are the two official languages of our country and have equality of status and equal rights and privileges as to their use in all institutions of the government of Canada;

That section 16 of the Constitution Act, 1867, designates the city of Ottawa as the seat of government of Canada;

That citizens have the right in the national capital to have access to the services provided by all institutions of the government of Canada in the official language of their choice, namely English or French;

That Ottawa, the capital of Canada, has a duty to reflect the linguistic duality at the heart of our collective identity and characteristic of the very nature of our country.

Therefore, your petitioners ask Parliament to affirm in the Constitution of Canada that Ottawa, the capital of Canada — the only one mentioned in the Constitution — be declared officially bilingual, under section 16 of the Constitution Acts from 1867 to 1982.

Hon. Marisa Ferretti Barth: Honourable senators, pursuant to rule 4(h) of the *Rules of the Senate*, I have the honour to table petitions signed by 2,008 residents of Montreal, in the province of Quebec, asking that Ottawa, the capital of Canada, be declared a bilingual city and the reflection of the country's linguistic duality.

[English]

QUESTION PERIOD

PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

POSSIBLE TERRORIST ACTIVITY— LEVEL OF SECURITY

Hon. J. Michael Forrestall: Most honourable senators will be aware of the recent arrest in Ottawa of Momin Khawaja, who was reportedly linked to a plot to carry out terrorist attacks in Britain. Strict security measures were put in place almost immediately around National Defence Headquarters. That was two weeks ago, about the same time as the arrest.

Will the Leader of the Government in the Senate tell us whether this Canadian citizen was linked to any plot to carry out attacks in this country?

Hon. Jack Austin (Leader of the Government): Honourable senators, I have no information to provide to Senator Forrestall.

Senator Forrestall: Honourable senators, I trust the leader might have his staff look into this matter and I will ask the question again tomorrow.

A recent al-Qaeda manual has ranked killing Canadians as a priority. Yesterday the U.S. announced measures to tighten security ahead of elections and warned that terrorists might be already in place.

Will the Leader of the Government in the Senate tell this chamber if we are currently at a higher state of vigilance?

Senator Austin: Honourable senators will know that matters of security are not generally discussed and that the paramount issue is the safety of Canadians. When it is in the interest of the safety of Canadians, the security forces act on the information they have, if they have any at all, without public discussion. I have no information to provide the honourable senator, and I doubt that I will have information in the near future.

Senator Forrestall: Honourable senators, the leader has surprised me somewhat. I thought he might at least rise to the occasion and tell us when we might have a general election.

Hon. Terry Stratton: Honourable senators, since the United States makes public announcements regarding different levels of security using colour coding, that is, yellow, orange or red, should Canadians not be provided with similar information so that we are aware of our status?

Senator Austin: Honourable senators, we do provide Canadians with information, but we do not have colour codes. Canadians are given narrative information.

Senator Stratton: Perhaps the Leader of the Government in the Senate will indicate what level we are at now?

Senator Austin: Extremely watchful.

Senator Stratton: Is the official position of the government that the current security level is extremely watchful? The public has a right to know. Can we tell the public that security is at an extremely watchful level?

Senator Austin: Honourable senators, I would be delighted if Senator Stratton would tell the public the government is extremely watchful about public security.

Senator Stratton: If we are at "extremely watchful," what are the other categories?

Senator Austin: Honourable senators, we do not keep our security alerts in categories; we use a narrative form to advise the public.

Senator Stratton: In other words, obfuscation and bafflegab works. We are asking about the levels of security. Surely to goodness the Leader of the Government in the Senate can provide this chamber with that information.

Senator Austin: I would be delighted to provide that information in narrative form.

INDUSTRY

TECHNOLOGY PARTNERSHIP PROGRAM— HIRING OF UNREGISTERED LOBBYIST TO SECURE GRANTS

Hon. Pat Carney: Honourable senators, my question concerns the revelation last week that, against Industry Canada rules, Mr. Neelam Makhija, acting as a middleman, collected \$2 million in commissions for helping three British Columbia companies obtain grants from the Technology Partnership Program.

The consultant in question lives in Toronto and, apparently, has a remarkable record of obtaining grants for companies that would otherwise be denied them and, in at least one case, for getting a grant for a project that had been turned down before the recipient hired him.

Beyond the three known companies, another six have had their payments from the Technology Partnership Program frozen while Industry Canada auditors investigate their dealings with Mr. Makhija.

[Senator Gauthier]

I expect that the Leader of the Government in the Senate will realize that two Industry Canada rules were broken. First, the companies were working with an unregistered lobbyist. Second, commissions and contingency fees violate Industry Canada contract rules.

• (1430)

Could the Leader of the Government in the Senate report to the Senate on how much money went out the door before the auditors realized there was a problem? Second, could the government leader also advise the Senate how long the auditors expect to take to complete their work?

The Leader of the Government in the Senate may also wish to comment on why someone from British Columbia would have to go to Toronto to hire an unregistered lobbyist to get the grant.

Hon. Jack Austin (Leader of the Government): Honourable senators, I have seen the reports of this story and I will endeavour to provide the Senate with information when it is made available to me. I do not have a statement to make on the findings of any investigation. I am aware, as I said, of the allegations; it is my hope that, if there is malfeasance here, such malfeasance was not sourced in British Columbia.

NATIONAL REVENUE

CANADA REVENUE AGENCY— REDRESS TO CITIZENS GIVEN INCORRECT INFORMATION

Hon. Pat Carney: Honourable senators, my second question involves the expenditure of money and is supplementary. I recently phoned the Canada Revenue Agency to get specific tax information, which I was given, by a real person. I subsequently learned from my accountant that the information I was given was incorrect. In fact, my accountant said that information given through this process by the CRA is so often incorrect that in his company they take the best two out of three answers. It is a serious situation for anyone who files an incorrect tax return? Why should Canadians have to hire an accountant to fill out their income tax forms?

What is the redress for an individual who is given incorrect information by the CRA in their very public Web process, and when can I expect my refund?

Hon. Jack Austin (Leader of the Government): Honourable senators, if such a thing has ever happened, I am sure there will be a record of it and a precedent established. I will search for the answer in that form.

Senator Carney: Honourable senators, I want an answer from the Leader of the Government in the Senate that can be given to Canadians about what redress they can expect when they either telephone the agency or use the Web site and are given incorrect information. Surely, the government leader is able to get a response or a remedy for those of us in that position.

Senator Austin: Honourable senators, I thought I had answered the question in a very serious way. To repeat my answer, I said that if such a thing has happened, I will search for the precedents and see what is the policy of the Canada Revenue Agency when taxpayers have been improperly advised.

Senator Carney: I am asking the government leader to supply that answer to the Senate.

HEALTH

TOBACCO CONTROL STRATEGY

Hon. Wilbert J. Keon: Honourable senators, I have a question for the Leader of the Government in the Senate.

Several international health groups, including the Canadian Cancer Society and the Heart and Stroke Foundation of Canada, have made public their concerns that the federal Tobacco Control Strategy will soon be eliminated. They say that the government's program expenditure review has put the strategy's work on hold, including its new advertising campaign. Despite the falling smoking rate, the need for such a program has not gone away. Tobacco use is still responsible for over 45,000 deaths per year in Canada, which is more than those caused by car accidents, drug overdoses, suicides, murders and AIDS combined.

Could the Leader of the Government in the Senate tell us if these health groups have true concerns, or if there is something in the works that could alleviate their anxiety?

Hon. Jack Austin (Leader of the Government): Honourable senators, I certainly will make enquiries and try to make the information available quickly.

Senator Keon: Honourable senators, when the Tobacco Control Strategy was announced in 2001, then finance minister Paul Martin and then health minister Allan Rock promised that the funding of this program would be sustained, but the funds were cut last year by \$13 million. Despite that loss, the program may still yield results as long as the funding is not cut any further.

Could the Leader of the Government in the Senate tell us whether the funding will remain stable at the present rate or whether additional cuts might be anticipated?

Senator Austin: Honourable senators, I will add that question to my inquiry.

AGRICULTURE AND AGRI-FOOD

BRITISH COLUMBIA—OUTBREAK OF AVIAN INFLUENZA IN POULTRY INDUSTRY

Hon. Gerry St. Germain: Honourable senators, my question is also directed to the Leader of the Government in the Senate. It relates to the avian flu that has struck the poultry industry in British Columbia. There has been great concern on the part of growers in that industry that there was no effective emergency strategy in place to deal with the outbreak. That is reinforced by the fact that some of the farms that were originally contaminated still have not been evacuated of poultry and poultry manure.

Could the Leader of the Government in the Senate elaborate on what measures the government has in place and what would be done if another outbreak occurred elsewhere in Canada?

Hon. Jack Austin (Leader of the Government): Honourable senators, the Canadian Food Inspection Agency acted expeditiously the moment avian flu was reported in the poultry population in British Columbia. According to my information, Health Canada was advised on February 18 of this year that an avian influenza virus had been certified in one broiler breeder stock in British Columbia. A series of steps have been taken from that time until this date. Action was taken almost immediately to quarantine reported sources. Following that, an order was given for the destruction of the infected poultry population. As Senator St. Germain knows, a hot zone was established and then expanded.

One of the most difficult parts of this avian influenza issue is that all efforts made to trace the manner in which infection is spreading have not resulted in a definitive answer. Currently, 31 breeder farms are infected in addition to a number of farmyard flocks and, to date, no source of the infection and no methodology for its transport have been defined.

This is an extremely serious matter for the bird industry. At the same time, we have not been able to detect an avian flu occurrence in the wild bird population. That adds to the mystery and difficulty.

In the meantime, there is no expectation of a human health problem of any consequence with regard to the virus in question.

Senator St. Germain: Honourable senators, the Leader of the Government will know that there has been great controversy in British Columbia with regard to dump sites, et cetera. I believe that these things should have been part of an emergency program already in place.

There was an outbreak in the state of Texas and they immediately took such aggressive action that they were able to contain it to, I believe, only one farm. There have been other outbreaks of this unfortunate epidemic in other areas of the country.

I know that the Canadian Food Inspection Agency did as good a job as possible in dealing with the BSE situation. For some odd reason, it seems we are stumbling in establishing who is responsible for what at the provincial and federal levels.

• (1440)

There have been protests in Cache Creek, where there is a major GVRD dump site. People have protested against bringing these infected birds into the area. This leaves the feeling that no one knows what is really going on, something which is reinforced by the farmers, who do not know what is going on. No one can put a handle on the outbreak.

I do not think anyone is trying to lay blame. Officials are looking at how to contain the outbreak and deal with it effectively and immediately. However, this has been an issue for two months now. There was a recent outbreak at a Cloverdale farm. As opposed to being able to contain the situation, we are stumbling along. Again, I lay no blame on anyone.

Is the federal government responsible for establishing emergency programs to deal with an issue of this nature, or does such responsibility revert to the provincial government? Establishing jurisdiction is important in dealing with an outbreak of this sort.

Senator Austin: Honourable senators, Senator St. Germain has raised a number of points.

First, I would like to make it clear that the CFIA reported today that avian influenza has been detected on 33 commercial premises and in 10 backyard flocks in the Fraser Valley area. The new sites are outside the original 10-kilometre-wide hot zone where the first avian flu cases were confirmed in February. All backyard flocks with a confirmed infection have been depopulated. Depopulation continues on a priority basis for all other premises.

The health of animals and its role in the human food chain is the responsibility of the federal government. As Senator St. Germain knows, under the Health of Animals Act, we have established a program of compensation when the federal government orders the destruction of infected or potentially infected animals and, in this particular case, poultry. The disposal of the carcasses is the responsibility of the provincial government, which has been assiduous in attempting to supervise the destruction of poultry either infected or ordered to be destroyed because of potential infection.

There have been problems in British Columbia with some communities whose populations fear the contagion of these birds. Health scientists say that the level of contagion risk to humans is extremely low. They also say that once these birds are dead they are no longer infectious. There are communities that do not want these bird carcasses on any terms whatever.

I believe the province has been doing very well under the circumstances and that both governments have cooperated extremely well. The poultry industry is aware of and has approved the measures being taken. Issues of compensation are not contentious, and the federal government has begun to pay compensation.

As to why this situation has been going on for this long, I answered that inquiry in response to the first question posed by the honourable senator. We do not know. Scientists cannot discover the nature of the transmission vehicle. Speculation has been that infection is carried on equipment or perhaps on the clothes of farm workers who go from one farm to another. In the last few weeks, those people have been given new clothing that was not used in a previous exposure and the contagion has continued.

Senator St. Germain: Honourable senators, the Leader of the Government has just said that there are 33 cases. This means that there have been two new cases over the course of the last 24 hours, further exacerbating the situation.

It is not a question of being critical. The province is doing as much as it possibly can, as is the CFIA.

Why is it that other areas have been able to contain the spread of the virus so rapidly and we have not? There must be an explanation. Perhaps it will emerge down the road. At the present time, the concern of the farmers is that the process of arresting the spread of the virus seems to be prolonged.

Senator Austin: Honourable senators, thus far, the contagion has been contained to the Fraser Valley, which is a very large area. Chinese in the provinces of Guangdong and Fujian took several weeks to depopulate very substantial bird flocks. Senator St. Germain may recall that every bit of poultry was destroyed in Hong Kong in order to deal with an avian flu epidemic.

The only way known to science to destroy this contagion is to destroy the population entirely and then rebuild it after the period of infection has lapsed.

INTERNATIONAL TRADE

UNITED STATES— BOVINE SPONGIFORM ENCEPHALOPATHY— OPENING OF BORDER TO LIVE CATTLE EXPORTS

Hon. Leonard J. Gustafson: Honourable senators, my question relates to the United States trade ban on live cattle.

Now that the U.S. Department of Agriculture has decided to lift the remaining restrictions on Canadian beef from younger animals, which effectively opens the door to \$170 million of Canadian beef exports to the U.S., could the Leader of the Government in the Senate comment on when the government expects the U.S. to end the trade ban on live cattle?

Hon. Jack Austin (Leader of the Government): Honourable senators, I have no information for Senator Gustafson as to when the Government of the United States may come to a conclusion on live cattle being moved into the U.S. market.

HEALTH

UNITED STATES— BOVINE SPONGIFORM ENCEPHALOPATHY— TESTING STANDARDS FOR DETECTING DISEASES

Hon. Leonard J. Gustafson: Honourable senators, we certainly know that the issue is moving younger cattle on the hoof into the United States. Undoubtedly, the Prime Minister will raise the U.S. trade ban on live cattle when he visits the President at the end of month. However, as we know, the battle against protectionism by the American government must be fought on other fronts. Senators, including Democratic presidential candidate John Kerry, as well as Hillary Clinton, contend that Canada has lax testing standards for mad cow disease. Nothing could be further from the truth. Our scientists and the Department of Health have done an excellent job, which has been revered around the world. What will the government do to set the record straight on this very important health issue?

Hon. Jack Austin (Leader of the Government): As Senator Gustafson knows, the consultation period that was initiated by the Department of Agriculture in the United States, and on which we exchanged comments some two weeks ago, has closed. We

believe that the U.S. ought to rule on a positive resumption of imports of live cattle under as well as over the age of 30 months.

• (1450)

It is the view of the Canadian government that the United States Department of Agriculture will take a science-based approach. It is also the view of the Canadian government that should the United States take a science-based approach, it will then find that Canadian cattle can be safely imported into the United States. However, it is impossible to say when they will come to the same conclusion. I think, finally, that measures are underway to refute the inaccuracy of the statements made by those U.S. senators to which Senator Gustafson referred.

Senator Gustafson: Honourable senators, when high-profile people are not informed of the situation, it is necessary to create an educational program to make them aware of what is in fact happening. Perhaps the government should write these people a letter telling them what we have done, as this is a very important matter.

Senator Austin: Honourable senators, as we know, people sometimes make comments in error because they do not have appropriate information or because they do not want to know anything different from the comment they made.

LOCATION OF NATIONAL CENTRE FOR DISEASE CONTROL

Hon. Terry Stratton: Honourable senators may not be aware that the Leader of the Government in the Senate has made known his opinion on where Canada's disease control centre should be located. Shortly after taking on his new position, Senator Austin stated in a press release:

When researchers at the University of British Columbia were the first in the world to solve the genetic code for the SARS virus last April, it confirmed Vancouver's place amongst the top medical research centres in the world. I am convinced that B.C. would be an excellent and appropriate site for Canada's national centre for disease control.

Could the Leader of the Government in the Senate tell us if he consulted with his colleagues on the government side before releasing his statement and whether his colleagues are in full agreement with his views?

Hon. Jack Austin (Leader of the Government): Honourable senators, I consulted with as many colleagues as I could. I discovered that there were a variety of views with respect to this particular issue; but nothing I heard changed my view.

Senator Stratton: Honourable senators, in case some of you did not know and are unfamiliar with it, I would like to tell you a little bit about the National Microbiology Laboratory. It is the only Level 4 containment facility in Canada, meaning that it is the only place in the country that is able to study the most deadly of diseases in both human beings and animals. The National Microbiology Laboratory, along with its talented scientists, is recognized around the world for its state-of-the-art work. Of course, it is located in Winnipeg, Manitoba.

Given its many fine attributes, would the Leader of the Government in the Senate agree that the National Microbiology Laboratory would be the most appropriate site for the new national centre for disease control?

Senator Austin: Honourable senators, I want to say that Canada's facility located in Winnipeg is one of the world's best in terms of a Level 4 diagnostic laboratory system. It definitely is an essential part of a disease control management system for Canada. It must be there.

As Senator Stratton may not know, the question of a centre for disease control was given over to a study by scientists headed by Dr. David Naylor. His report included the unanimous opinion of some 10 or 11 other scientists that the Vancouver facilities for disease control, which are of long and experienced standing and are very integrated in their work in the fields of genomics, microbiology and epidemiology, received 12 of the 20 points awarded for the establishment of a centre for disease control, while Winnipeg received four of 20 points.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour of presenting 10 delayed answers to oral questions. The responses are for the following: a question posed by the Honourable Senator Stratton on March 11, 2004, concerning payouts to EDS Canada for the gun registry computer system; a question posed by the Honourable Senator St. Germain on March 29, 2004, regarding British Columbia's outbreak of avian influenza in the poultry industry; a question posed by the Honourable Senator St. Germain on March 23, 2004, regarding protocol for flying flags at half mast; a question posed by the Honourable Senator St. Germain on March 10, 2004, concerning consumer beef prices; a question posed by the Honourable Senator Spivak on March 24, 2004, concerning mandatory labelling of genetically modified grains; a question posed by the Honourable Senator Spivak on February 26, 2004, concerning bovine spongiform encephalopathy — the decision not to ban blood in feed; a question posed by the Honourable Senator Sparrow on February 16, 2004, concerning the cost of the Canadian firearms program; a question posed by the Honourable Senator Meighen on February 26, 2004, regarding the compensation for veterans exposed to chemical agent testing; a question posed by the Honourable Senator Gustafson on February 5, 2004, regarding BSE's effect on cattle trade; and a question posed by the Honourable Senator Gustafson on February 26, 2004, concerning the income stabilization program — support of provinces.

I want to say to Senator Lynch-Staunton that I gave him an undertaking some weeks ago and have not been able to keep it. However, I want to assure him that I am assiduously pushing the people who get the answers, and I hope to have them in the near future.

[Senator Stratton]

JUSTICE

PAYOUTS TO EDS CANADA FOR GUN REGISTRY COMPUTER SYSTEM

(Response to question raised by Hon. Terry Stratton on March 11, 2004)

In the fiscal year 1997-1998, EDS was awarded the original contract to develop, implement and manage the Canada Firearms Centre information system. As of December 31, 2003, the Canada Firearms Centre has paid EDS approximately \$165 million to develop and subsequently operate the information system. I would like to point out that the IT system developed by EDS is operational. It has been working since the law came into force in December 1998. To date, it has been used to license almost two million firearm owners and to register almost seven million firearms. It has also been successfully enhanced over the years to provide improved services to Canadians, for example, by means of Internet transactions.

AGRICULTURE AND AGRI-FOOD

BRITISH COLUMBIA—OUTBREAK OF AVIAN INFLUENZA IN POULTRY INDUSTRY

(Response to question raised by Hon. Gerry St. Germain on March 29, 2004)

The Canadian Food Inspection Agency (CFIA) is allowing products to move with general and specific permits, weighing the risk of spreading disease when issuing these permits. This will remain in place until it is clear that there is no further infection in the area and the incubation period of the disease is past (3 weeks) without further infection.

Table eggs that have been washed and graded, are allowed to move from the control area to all of the province of British Columbia. Cooked poultry products can be moved anywhere in Canada.

Movement restrictions are being reassessed as more information emerges through the CFIA's surveillance and investigation activities. We will seek to minimize these restrictions, where possible, but our first consideration is stamping out this disease.

CFIA scientists are completing a risk assessment and consulting with the industry and provincial governments. The continued discovery of new infected flocks must also be taken into account.

For domestic purposes, the restrictions will be lifted in the control area after at least 21 days have elapsed after the last case has been reported and following the completion of the stamping-out policy and disinfection procedures.

Compensation

The CFIA provides compensation to owners of animals ordered destroyed under the authority of the *Health of Animals Act*. The compensation program is part of the CFIA's effort to control or eradicate animal diseases that threaten Canada's livestock population. Such diseases are listed in the Reportable Diseases Regulations.

The compensation program is designed to encourage owners to report disease in their herds and flocks at the earliest signs, thereby preventing or reducing the spread of disease and assisting owners in rebuilding their herds. The control of animal disease is a shared responsibility of the owner, the industry, and the federal government. In addition to the human and animal health benefits of reporting disease in farm animals, public confidence in Canada's safe food supply is enhanced. Early reporting and control of any disease outbreak also helps Canada maintain its excellent international animal health status which bolsters Canadian exports of animals and animal products.

The amount of compensation awarded to owners is determined by an assessment of the market value of an animal and takes into consideration factors such as genetic background, age and production records. If an individual animal or a small number of animals are ordered destroyed, the veterinary inspector, with the written consent of the owner, may establish the value based on knowledge of the local market.

Each animal is evaluated and its market value is determined; however, the compensation awarded is subject to maximum levels set out in the Compensation for Destroyed Animals Regulations. The owner is awarded market value less the value of the carcass received if salvage is possible, but if the animal's market value is equal to or exceeds the maximum allowed, the owner is awarded the maximum compensation amount.

Owners of animals ordered destroyed may also be awarded compensation for disposal costs including transportation, slaughter, labour, and equipment. Additionally, compensation is paid for things such as contaminated animal products or feedstuffs that are ordered destroyed to control the disease.

The *Health of Animals Act* does not provide compensation for costs associated with testing animals. The farmer is compensated, however, when an animal dies during inspection or testing, or is injured so severely that the animal has to be destroyed during inspection or testing. Producers whose farms are found to be infected are not paid for costs such as feed and labour, including the producer's time, nor for cleaning and disinfecting the infected premises.

The compensation provisions of the *Health of Animals Act* are not designed to address impacts of control measures on other producers in a control area or the impacts of market changes, nor are they intended as insurance. The *Act* is intended to provide compensation for animals destroyed

as a means of encouraging animal owners to report specific diseases in their herds and flocks at the earliest signs, thereby preventing or reducing the spread of disease.

Disease eradication programs in livestock and poultry are not only for the public good, but for the good of the industry itself. Historically, producer groups have agreed that the financial cost of an eradication program (testing costs, mustering fees, etc) is a worthwhile investment in the future of their industry and the protection of their families and enterprises against animal diseases.

HERITAGE

PROTOCOL FOR FLYING FLAGS AT HALF MAST

(Response to question raised by Hon. Gerry St. Germain on March 23, 2004)

The current policy regarding the half-masting of the National Flag of Canada was adopted by cabinet in 1966 and revised in 2003. Upon the death of a member of the Privy Council, the National Flag of Canada is flown at half-mast on all federal buildings in the member's city of residence until dusk of the day of their funeral. This does not include the flag which flies atop the Peace Tower, should the member's city of residence be Ottawa, Ontario. This flag is lowered to half-mast from dawn until dusk on the day of the funeral of the Member of the Privy Council.

Clause 7 of the policy states that:

Upon the death of a Privy Councillor, who is not a current member of the Canadian Ministry, or a current Senator, the Flag is flown at Half-mast:

A. on all federal buildings and establishments in his or her place of residence, excluding the Peace Tower if the place of residence is Ottawa, from the time of notification of death until sunset on the day of the funeral or the memorial service;

B. on the Peace Tower from sunrise to sunset on the day of the funeral or the memorial service, as the case may be.

This should explain why the flags on Parliament Hill, with the exception of the Peace Tower, were flying at half-mast on March 23, 2004. They were at half-mast in honour of the late the Honourable Mitchell Sharp, P.C., C.C., whose city of residence was Ottawa. On March 27, 2004, the National Flag of Canada on the Peace Tower was lowered at dawn and kept at half-mast until dusk that very same day.

The policy regarding half-mastings in Canada is available for all Canadians on the Department of Canadian Heritage Web site at:

http://www.pch.gc.ca/progs/cpsc-ccsp/berne-halfmasting/index_e.cfm.

AGRICULTURE AND AGRI-FOOD

CONSUMER BEEF PRICES

(Response to question raised by Hon. Gerry St. Germain on March 10, 2004)

The BSE situation has affected all participants in the beef supply chain and I appreciate the concerns that have been raised on this issue by both cattlemen and consumers. The Government of Canada is committed to ensuring that a fair, open, and efficient marketplace exists. The Competition Bureau has indicated that the evidence to date does not suggest behaviour that is contrary to the Competition Act. The Bureau has said that it will consider any additional information brought to its attention that may point to a breach of the Act.

In addition, on March 11, 2004, the Government of Alberta also released a report into the issue concerning consumer beef prices. This report concluded that packers had not profited unfairly from the BSE situation. The report indicated that, although cattle prices have fallen significantly, many new costs have arisen. These include the costs to implement new procedures to minimize contamination, such as SRM removal brought forward by this government to ensure food and animal safety. The report also indicated loss of export markets for certain products and cuts has translated into a reduction of carcass value.

On March 22, 2004, representatives of the Canadian Council of Grocery Distributors appeared before the Standing Committee on Agriculture and Agri-Food. The presented data showing that average retail beef prices in their members' stores have fallen 13.8 per cent since May, 2003. The Canadian Cattlemen's Association has suggested that claims that one sector of the beef industry is profiteering at the expense of others are simplistic and require more in-depth analysis.

The Government of Canada also announced a few days ago that a further \$680 million will be provided directly to cattle producers to help them with cash flow difficulties during this period of uncertainty, and \$250 million to Canadian agricultural producers, including cattle producers, as transitional support until new Business Risk Management programming is fully implemented later this year.

The most pressing issue in resolving the BSE crisis, however, is the reopening of international borders. The Government continues to work closely with foreign officials to expedite this process.

GENETICALLY MODIFIED GRAINS— MANDATORY LABELLING

(Response to question raised by Hon. Mira Spivak on March 24, 2004)

Sound science is the basis of the federal government's health, safety and environmental assessments of new products. As with any new product of biotechnology,

biotechnology-derived wheat will be subjected to a thorough safety assessment before the Canadian Food Inspection Agency (CFIA) would consider authorizing its unconfined environmental release. No wheat with new traits will be approved until the proponent has completely satisfied all regulatory requirements and has provided the CFIA with sufficient evidence that the crop will not pose a significant risk to the environment.

Along with a complete characterization of the modified crop, the CFIA will consider the impact of the biotechnology-derived wheat on weediness and pollen outflow to related species, as well as the effect on non-target organisms and on biodiversity. As part of this environmental assessment, any impacts on the control of volunteer wheat as a result of the novel traits will also be considered.

In order for a wheat variety to be sold in Canada, it must be registered by the Variety Registration Office of the CFIA, pursuant to Part III of the *Seeds Regulations*. The registration process for a Plant with Novel Trait (PNT) wheat variety and a conventional wheat variety is the same with the exception that a Plant with Novel Trait (PNT) wheat variety must be approved for human consumption by Health Canada and for unconfined environmental release and feed use by the CFIA before it is registered.

The variety registration process ensures that new varieties of wheat being introduced in Canada have agronomic, disease and quality merit. Recommending committees recognized by the Minister, evaluate new varieties and make recommendations to the Variety Registration Office as to whether or not they meet the merit criteria necessary for registration. Market acceptance is not a consideration for variety registration.

Once a biotechnology-derived crop has been granted approval for commercialization, it is treated just like any other commodity crop. Growers are free to implement identity preservation systems for certain specialized types of production and can co-operate with their neighbours to minimize the impacts of surrounding production methods. The CFIA continues to sponsor public research into pollen flow and the resulting data can be used by farmers who wish to minimize the impact of pollen flow from surrounding crops.

The CFIA listens to the concerns of all producers. Biotechnology and organic agricultural practices are but two production approaches available to people working in the agriculture and agri-food sectors. Producers need access to a variety of technologies and production techniques that offer the potential for improved returns, conservation of natural resources and greater flexibility in production management.

Organic production practices are established by organic grower groups, who although requiring zero tolerance for pollen flow from biotechnology-derived crops, know that gene flow from crop production is not unique to biotechnology-derived crops.

For matters of health and safety, the Government requires mandatory labelling in Canada. To date, the foods that have been assessed and approved by Health Canada are considered to be as safe and as nutritious as foods presently on the market. As such, Health Canada can require mandatory labelling if there has been a change in nutrition or safety.

In Canada, labelling policy allows industry to voluntarily label products for method of production (i.e. product of biotechnology), provided the label is truthful, not misleading and complies with other regulatory standards. This approach allows food manufacturers to meet consumer demand for information while remaining consistent with international trade obligations.

The Government of Canada has supported the work undertaken by the Canadian General Standards Board, since 1999, to develop a Canadian standard for the voluntary labelling of genetically engineered foods. The Standard is currently in the final stage of approval at the Standards Council of Canada.

BOVINE SPONGIFORM ENCEPHALOPATHY— DECISION NOT TO BAN BLOOD IN FEED

(Response to question raised by Hon. Mira Spivak on February 26, 2004)

The Honourable Mira Spivak was advised that Canada does not plan to ban the feeding of cow blood to calves. The Honourable Senator asked what consultations took place between the United States FDA officials and U.K. officials before our government decided to continue this ill-advised practice? What science supports our policy of which governments in the U.S. and the U.K. are unaware?

For the moment, the ruminant feed bans in both Canada and the United States allow for the feeding of blood products derived from any species (including ruminants) to other ruminants. The U.K. is subject to a European Union-wide animal product to farm animal feeding ban, which includes blood products. Under these restrictions, animal origin protein from all species of animals are prohibited for feeding to livestock.

On January 26, 2004, the U.S. Food and Drug Administration (FDA), the agency responsible for administering the feed ban in the U.S., announced they would be moving to make several amendments to their ban, including the removal of the exemption for feeding blood products to ruminants. As of yet, the FDA has not published their amendments so it is not known what blood restriction will apply. The Government of Canada was not given any indication by the FDA that a change on

the feeding of blood products was forthcoming nor were any formal discussions concerning the feeding of blood products held between the Government of Canada and FDA officials prior to the making of this announcement.

With respect to Canada's position on the feeding of blood products to ruminants, scientists at both the Canadian Food Inspection Agency (CFIA) and Health Canada have reviewed the current knowledge about the potential for blood to contain and transmit bovine spongiform encephalopathy (BSE) infectivity and have concluded that the risk is very low. While there is evidence indicating BSE can be transmitted from infected sheep to other sheep via blood transfusion, there is no evidence indicating the disease can be transmitted via the consumption of blood products processed into animal feed ingredients (for example, blood meal, dried blood plasma or serum).

At the moment, no final decision has been taken on whether a change is necessary. But all options to strengthen the current feed restrictions remain under active consideration.

JUSTICE

REVIEW OF GUN REGISTRY PROGRAM

(Response to question raised by Hon. Herbert O. Sparrow on February 16, 2004)

The Firearms Program has not cost two billion dollars — in fact, it has not even cost one billion dollars. We do not anticipate reaching one billion dollars until sometime during 2004/05.

As of March 31, 2003, the full cost for the Program was \$814 million as reported in the 2002/03 Department of Justice Departmental Performance Report. This number includes the Information Technology costs and the reimbursements to the provinces and federal partners, such as the RCMP and the Canada Border Services Agency. This total also includes all of the supplementary estimates that were approved by Parliament.

The money that has been invested in the Canada Firearms Centre's information technology system, including its development and operation over the past seven years, has been money well spent. The information technology system has been operational since 1998, the date the law came into effect. The system has been used successfully to license 2 million firearms owners and to register almost 7 million firearms.

The total projected expenditure relating to the Program for 2003/04 is approximately \$133 million. This amount represents \$116 million for the Canada Firearms Centre and an estimated \$17 million identified by our other federal partners. All of these monies were approved by Parliament, and I can assure you that the Program continues to focus on efficient and cost-effective operations.

VETERANS AFFAIRS

COMPENSATION FOR VETERANS EXPOSED TO CHEMICAL AGENT TESTING

(Response to question raised by Hon. Michael A. Meighen on February 26, 2004)

While a dollar value cannot be placed on individual pain or suffering, this tax free payment offer of \$24,000 is being provided to these Veterans as a gesture of goodwill in recognition of their service. The amount is consistent with ex-gratia payments provided to other groups of Veterans such as the Hong Kong Prisoners of War. It is estimated that 2,040 veterans or primary beneficiaries of veterans who participated in Suffield and Ottawa would be alive today to receive this payment.

AGRICULTURE AND AGRI-FOOD

BOVINE SPONGIFORM ENCEPHALOPATHY— EFFECT ON CATTLE TRADE

(Response to question raised by Hon. Leonard J. Gustafson on February 5, 2004)

The Government of Canada reaffirmed its commitment to producers on March 22, when the Prime Minister and the Minister of Agriculture announced the Transitional Industry Support Program, which will provide nearly \$1 billion to the agricultural sector. \$680 million of this is earmarked specifically for cattle producers, to help them with cash flow difficulties during this period of uncertainty. Another \$250 million will be available to all Canadian agricultural producers, including cattle producers, as transitional support until new Business Risk Management programming is fully implemented later this year. The government will continue to monitor the situation facing the sector, and may consider additional programming to address specific needs.

As the honourable senator knows, the Government of Canada has worked closely with its provincial counterparts and industry from the outset to find solutions to the situation that has resulted from the confirmation of BSE in Canada. Last summer, governments committed \$520 million to the BSE Recovery Program, which succeeded in keeping cattle moving through the value chain and helped prevent a backup of animals into the domestic market. In the fall, governments committed up to \$200 million for the Cull Animal Program, which was designed to help producers feed older animals (whose meat could not and still can not be exported) until they could be slaughtered domestically.

But as the honourable senator surely knows, the real solution to the situation facing the Canadian cattle and beef sector is the reopening of export markets for live cattle and beef products. Let me assure him that the Federal Government, provincial governments, and the industry are committed to working together to this end, and will not rest until this goal is realized.

The Government of Canada has demonstrated its commitment, at the Prime Ministerial, Ministerial and officials level, to work with counterparts in the United States to normalize trade in cattle and beef between our two countries.

President Bush publicly stated that science will be used as a basis in the U.S. Administration's approach to this issue, and Canada's efforts have centred on the scientific rigour of our BSE risk mitigation measures. The U.S. Government's confidence in these measures was reflected in the partial reopening last September of the U.S. border to certain Canadian beef products derived from animals under thirty months of age and in their subsequently adopting nearly identical measures after the detection of BSE in Washington State.

On November 4, 2003, a proposed rule was promulgated which, if implemented, would allow the resumption of U.S. imports of certain classes of live animals from Canada, including youthful slaughter and feeder cattle, sheep and goats. This process was temporarily suspended following the detection of BSE in the United States in December, but was re-started in early March after the joint Canada-U.S. investigation concluded. Comments are now being requested on the possibility of allowing imports of beef products from animals over thirty months of age.

In addition, almost immediately following the meeting between Prime Minister Paul Martin and President Bush, Canada, the U.S. and Mexico committed to working together toward harmonizing policies and regulations on BSE, and to managing BSE within a North American context. Since last September, the three countries have been pressing the World Organization for Animal Health (OIE), to update the international guidelines for BSE to reflect a risk-based approach that takes into account current understanding of the disease.

The U.S. has committed to work with us to reintegrate the North American market on a timely basis to the full extent possible. While it is premature to predict when the proposed U.S. live cattle rule will be finalized, we are hopeful that this will take place in a timely manner. All indications coming from the U.S. continue to be that science will be the deciding factor in the finalization of the rule and the resumption of live ruminant trade.

The option of processing more cattle in Canada is being explored at many different levels. Different groups are proposing the construction of new plants or the expansion of existing facilities. New packing plant capacity is expected to come on line at within the few months in Ontario and in Prince Edward Island.

Increasing domestic slaughter capacity encourages value-added processing in Canada. This would create wealth and jobs in this country, and reduce some of our dependence on the export of live animals. Governments and industry are working within the Beef Value Chain Round Table forum to explore the issue of increasing domestic slaughter capacity, in the context of long term sustainability.

The development of new markets is a more challenging task. Governments and industry have been working to reopen historical export markets; to widen the range of beef products that can be exported to countries that are already open (e.g. United States, Mexico); and to identify new markets. The difficulty in selling Canadian beef, given its high quality and resulting high price, is that sales are limited to high quality beef markets.

In November, the Government of Canada provided \$1.5 million to the Beef Information Centre to support the marketing of beef from older cattle that could not be exported due to current border closures. This was done to encourage the consumption of beef domestically, further reducing our dependence on the export of live animals.

INCOME STABILIZATION PROGRAM— SUPPORT OF PROVINCES

(Response to question raised by Hon. Leonard J. Gustafson on February 26, 2004)

In response to the Honourable Gustafson's question regarding the coming into force of the Canadian Agricultural Income Stabilization (CAIS) Program under the Agricultural Policy Framework. The launch of the CAIS program was announced in December 2003. All provinces have signed the Implementation Agreement. The CAIS program is available to producers in all provinces.

In December, program changes were suggested by industry. The following changes have been incorporated in amending agreement number 3.

- a simplified deposit option for 2003 which allows producers to only deposit 1/3 of the normal amount required to fully access government payments corresponding to the level of coverage selected;
- a commitment to review deposit options for 2004;
- raising the cap on the government payment from \$975,000 to \$3 million per producer; and
- governments contributing to 60 percent of negative margin coverage.

In order for the amendment to come into effect it must be signed by two-thirds of the participating provinces representing more than 50 per cent of total production margin.

To date, three provinces (Alberta, Ontario and Prince Edward Island) have signed the amending agreement. Several other provinces have indicated that they will be shortly seeking necessary authorities.

[Translation]

LIBRARY AND ARCHIVES OF CANADA BILL

BILL TO AMEND—MESSAGE FROM COMMONS—
SENATE AMENDMENTS CONCURRED IN

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons returning Bill C-8, to establish the Library and Archives of Canada, to amend the Copyright Act and to amend certain acts in consequence, and acquainting the Senate that they have adopted the amendments made by the Senate to this bill without amendment.

[English]

ORDERS OF THE DAY

PUBLIC SAFETY BILL 2002

THIRD READING—DEBATE ADJOURNED

Hon. Joseph A. Day moved third reading of Bill C-7, to amend certain Acts of Canada, and to enact measures for implementing the Biological and Toxin Weapons Convention, in order to enhance public safety.

He said: Honourable senators, Bill C-7 is an important piece of legislation, which the Deputy Prime Minister has described as one that is required to fill gaps and one that is urgently needed. It is in that light that I would like to present my submissions on behalf of the government with respect to this bill.

Bill C-7 seeks to enhance public safety and to establish a new act to implement the Biological and Toxin Weapons Convention, a convention that was entered into by the Government of Canada some time ago. The bill was reinstated in the other place in February of this year and received first reading in the Senate on the same day. On March 11, the bill received second reading and was referred to the Standing Senate Committee on Transport and Communications. Honourable senators will recall that the Chair of the Standing Senate Committee on Transport and Communications, the Honourable Senator Fraser, reported the bill to the Senate without amendment on April 1, 2004.

• (1500)

[Translation]

The government's first responsibility is to ensure that Canadians are safe. All the other rights and freedoms are second to this. This is not solely about the security of long-time Canadians, but also current and future immigrants and newly established Canadians. In fact, Canada is so attractive to potential immigrants because it offers a secure and non-violent society.

Bill C-7 will give twelve departments, including the authorities responsible for law enforcement and the agencies responsible for border control and intelligence, additional tools to better evaluate threats to transportation and national security, and to better intervene and prevent such threats.

[English]

The Senate committee heard from various witnesses including the Deputy Prime Minister and Minister of Public Safety and Emergency Preparedness, the Minister of Transport, the RCMP Commissioner, the Director of CSIS, the Privacy Commissioner of Canada, the Canadian Bar Association, representatives of B'nai Brith Canada, the Muslim Lawyers Association, the International Civil Liberties Monitoring Group, the Canadian Association of University Teachers, Air Canada, Air Transat, the Air Transport Association of Canada, the Canadian Border Services Agency, and Citizenship and Immigration Canada.

Bill C-7 and its predecessors have been the subject of much debate over several years. Since it was first introduced two years ago a number of amendments have been made to improve the Bill C-7 and, as a result, it has evolved into a more balanced bill.

The bill was first written in the months immediately following the terrible events of September 11, 2001, when departments were assessing how we, as a government, reacted to the crisis and the necessary actions that had to be taken. A realization arose that we had, in one sense, been lucky in that some of the regulatory tools that we needed at that time to deal with the horrendous tragedy were already in place.

In the hours and days that followed September 11, several public servants worked to cope with the incredible impact of this horrific event. Then came the time when ministers and public servants had to evaluate whether we had the tools to handle the next event, an event we all hope will never happen but, realistically speaking, is likely to happen.

As I said, the bill was drafted in those first few weeks and months following September 11, 2001 and has been amended and tested against potential events since that time. One of the areas of concern was and is that the ability to react quickly to unprecedented and heretofore undreamed of events must be there. No one would have believed that a number of aircraft full of innocent people would have been hijacked with such precise timing and then used as bombs to kill many more innocent people. That concern resulted in the proposal before us to expand the existing limited power to make instant regulations to be known as interim orders. This provision caused much debate and discussion, and I think that the changes made to the earlier versions of this bill serve to illustrate the balance that has been sought and achieved in this bill.

While in committee we heard testimony about the unpredictable and more difficult reality of today's threats against public safety. September 11, 2001 taught us that airplanes are no longer just a means of transportation. They can be used as bombs. The international threat environment has reached North America in a way it never did before and we must do what we can to prepare for the next attack. For Canada and our allies throughout the

world, heightened and sustainable vigilance is the new reality. While Canada may not be a primary target for terrorist attack, we have been named as a possible target, and we must not forget that. We must be prepared. The cry has gone out from our Senate Standing Committee on National Security and Defence for better preparation. Most recently, there was a report by the Auditor General discussing emergency preparedness and how well we are handling matters.

I must say that some of the provisions in this bill respond to some of the concerns outlined in those reports and others.

As Minister McLellan has said:

...if you look around this world in terms of what is happening, there are more global threats, and more threats of terrorism, and we have an obligation to be able to tell Canadians that we are doing everything we can within reason to protect their safety and security. We have an obligation to do our part in conjunction with our allies to help protect the people who live in this world. If we do less, we will have failed.

Minister Valeri also spoke to this new reality when he advised that this bill gives the Government of Canada the ability to make air travel more secure. That is what we seek to achieve.

Some have questioned why we need this bill when the government already has many provisions that allow for rapid reaction in times of emergencies. The short answer is that no other legislation covers the subject matter to which these new proposals apply. The Deputy Prime Minister, during her appearance before the committee, noted:

...the proposals in this bill come at a time when it is imperative that Canada close the legislative gaps that currently exist with respect to national and transportation security.

We need this bill to provide the level of security that the public expects and, indeed, deserves. The answer must begin by recognizing that legislation deals with the prevention of terrorist actions as well as with the response to such actions.

Under "prevention" the bill deals with matters such as requirements for the implementation of security measures for pipelines, the sale of explosives, the manufacturing of biological and toxic weapons, and the assessing of individuals to be onboard an aircraft.

With respect to the assessing of individuals to be onboard an aircraft, consider, for example, a flight from Toronto to Vancouver, which I referred to during second reading, involving a large aircraft carrying a large fuel load. The aircraft will fly over several Canadian cities as well as several American cities. I can buy the ticket on the Internet and I can check in at the electronic kiosk. My possessions will be screened at the security point and, at the time of boarding, I need only present any document with

[Senator Day]

my picture on it. The security people cannot go behind that. Whatever name I have used and whatever picture is on the document is acceptable. Under Canadian law, no one can examine who I am from a security point of view for this flight, other than by referring to the documentation that I have presented.

As the law now exists, we do not know who is flying and we are not allowed access to that information. Being in such a position is not helpful in trying to prevent terrorist attacks.

• (1510)

[Translation]

During its consideration, the committee was careful to ask if the appropriate balance between protecting the privacy of Canadians and protecting against serious threats, an important objective, had been achieved.

I believe that Bill C-7 does strike this balance. Many senators agreed that we should be better equipped to identify individuals in Canada and on our planes who intend to do us harm. Senator Beaudoin's assessment of Bill C-36 is relevant for the purposes of analysing this legislation in the spirit of the Charter of Rights and Freedoms.

Bill C-7 strikes an appropriate balance between the government's duty to ensure public safety and its duty to respect the rights of individuals as guaranteed by the Charter.

We believe that we have taken important measures to ensure privacy protection and strike a balance between that right and security concerns.

Canadians want the assurance that, when their children board a plane to travel or to visit their grandparents, they will reach their destination safe and sound.

[English]

What price must we, as Canadians, pay to ensure safety and security? That was the question asked by Senator LaPierre of one of our witnesses. Clearly, honourable senators, the role for this legislative body is to determine the balance between our privacy rights, our fundamental rights and liberties, and the collective right to security, the security that the public expects. That is the balance we are trying to achieve with this Bill C-7.

In this country, we cherish our fundamental rights, our freedom and our privacy. In fact, that is what makes Canada so attractive to new immigrants. They know they can come here and have that security of person that they do not have in other places. We do recognize that we may have to give up a bit of those rights for the public good, to ensure the safety and security of others. It is very clear, honourable senators, that Canadians do want a secure society.

The Minister of Transport, along with his colleague the Deputy Prime Minister, who is also the Minister of Public Safety and Emergency Preparedness, appeared before our committee on

March 30. They were both of great help in advancing our understanding of the requirements for this legislation and the subsequent balancing that they have gone through over a considerable period of time and the urgency of this bill.

The Deputy Prime Minister stated in that appearance before the committee the following:

We cannot allow ourselves to become complacent. Rather, we must remain vigilant to guard against new threats. We must always be looking for ways to improve our strategies and emergency response capabilities. We must ensure that we do this in a way that reflects Canadian values, safeguards our liberties and respects our laws, our Constitution and our sovereignty.

In appearing before the standing committee, the Minister of Transport responded to concerns of certain senators that the bill seemed to focus mostly on airline security. The Minister of Transport advised that security legislation already exists for other modes and pointed out that, in addition, Bill C-7 introduces security for pipelines and certain power lines, as well as enabling significant security improvements to the marine mode of transportation.

Specifically, the Minister of Transport referred to Part 12 of the bill, which would allow the government to permit him, as Minister of Transport, to enter into agreements respecting the security of marine transportation or to make contributions or grants in respect of the cost or expense of actions that would enhance security on vessels and at marine facilities at our ports.

I quote the Minister of Transport:

The part is necessary because the existing Canada Marine Act constrains the government from providing funds to port authorities, for instance, to support their capital plans —

— for additional security measures.

As you know, senators, security circumstances have changed considerably since that provision was put into the Canada Marine Act in 1998.

That statement is quite clear, honourable senators. We would agree with the minister that the circumstances have changed considerably since that time. That is part of the approach of this Bill C-7, to go through many different statutes. There are 23 different statutes that are touched upon in this proposed amending legislation — to clarify, to rectify and to enhance, all from the point of view of public security.

In speaking to this part of the Canada Marine Act and Bill C-7, the Minister of Transport noted that last month's budget made reference to marine security as part of the government's commitment over the next five years to address security priorities. In the budget, the government committed a further \$605 million to address security issues in addition to the over \$7 billion in funding for security measures that were announced in the 2001 budget.

[Translation]

I will, if I may, make a few general comments on certain provisions that are indispensable to the security of Canadians, but that were less touched on during our deliberations. They will certainly be of interest to the senators.

As far as Part I is concerned, the proposed changes to the Aeronautics Act would make it clear that aviation security requirements would apply not only to passenger safety but also to the safety of the public, crew members, aircraft, aerodromes and other aviation facilities, such as control towers and runway markers.

The proposed provisions relating to the Aeronautics Act would authorize requirement of security clearances for those wishing to take part in pilot training, to pilot a crop-dusting plane, or to pilot or crew on a large private aircraft.

As well, any aircraft registered outside Canada would not be allowed to land at an aerodrome in Canada unless the aircraft and all persons and goods on board had been subjected to requirements that are acceptable to the minister.

Similarly, outside of Canada, the minister could assess the security of air carriers providing, or contemplating providing, flights to Canada, or that of the facilities used in such carriers' operations.

• (1520)

[English]

The last proposed provision of the Canadian Aeronautics Act I will mention concerns so-called acts of air rage. The proposed provision would ensure that no person could engage in any behaviour that endangers the safety or security of an aircraft in flight or of persons on board an aircraft in flight by intentionally doing one of the following: interfering with the performance of the duties of a crew member, lessening the ability of any crew member to perform that crew member's duties, or interfering with any person who was following the instructions of a crew member.

Following the events of September 11, 2001, and subsequent anthrax-related incidents in the United States and, to a degree, here in Canada, the serious harm occasioned by hoaxes having the appearance of actual terrorist activity was felt here in Canada as well as in many countries around the world. Bill C-7 contains measures to defer that type of harmful behaviour. More specifically, Part 4 of the bill will create a new Criminal Code offence that criminalizes both those who convey false information that is likely to cause reasonable apprehension that terrorist activity is likely to occur, and those who commit acts that are likely to cause a reasonable but false apprehension that terrorist activity is occurring or is likely to occur. Those are the only aspects that deal with the Criminal Code, whereas honourable senators will recall that the Criminal Code was the primary focus of Bill C-36 when we dealt with that.

I will now turn to Part 7 of the bill, which deals the Explosives Act. Here, the main thrust of the proposal is to ensure that it would be very difficult to obtain explosives for improper

purposes. The purchase of explosives or components of explosives has been adequately regulated for some time in order to ensure their safe use. However, as evidenced tragically by Oklahoma City — and, more recently, in Great Britain in the past few weeks — ordinary substances such as ammonium nitrate, a fertilizer, can be abused for improper purposes. Consequently, changes are proposed under the Explosives Act that would, for instance, provide restrictions on the acquisition, possession, use or sale of any explosive or class of explosives, to deal with this new type of threat.

I should also like to mention the following important provisions contained in Part 13, dealing with the National Defence Act. Reserve Force members of the Canadian Forces who are called out for military duty during an emergency would be reinstated in their civilian employment by their employers on return from that service. I am confident that all senators will applaud this initiative.

The proposal in Part 19 of Bill C-7 would assist the federal government's Financial Transactions and Report Analysis Centre of Canada, sometimes referred to as FINTRAC — which I will refer to, with your permission, as the centre. In the fulfillment of its mandate to uncover money laundering activities or financing for terrorist activities, these amendments would allow the centre, where an agreement has been entered into, to access information from government national security databases that the centre considers relevant to carry out its mandate, and only for that purpose. That would allow the centre to share compliance-related information with financial sector regulators and supervisors.

This past March, in an *Ottawa Citizen* article on the operation of FINTRAC, it was reported that information on 25 separate cases of terrorist financing involving \$22 million had been disclosed to law enforcement agencies in fiscal 2002-03. The information on 29 suspected cases of terrorist financing involving in excess of \$35 million had been disclosed in the first nine months of fiscal 2003-04. I am sure that we want this very good work to be assisted in every way, which is the goal of the amendments to Part 19 of Bill C-7.

Honourable senators, the provisions with respect to interim orders, or what some people refer to as instant regulations, will only be used where there is a demonstrable requirement for immediate action to deal with a significant threat to public safety. The provisions providing for the interim orders must take authority from the act under which they are created. If there were more time, they would have to have been properly generated as regulations. If they could not have been a regulation, they cannot form the subject matter of an interim order.

As explained at committee, an interim order can be reviewed by the Standing Joint Committee on the Security of Regulations immediately upon its issuance and, as a result of an amendment to the Statutory Instruments Act that we passed here last year, the Standing Joint Committee can recommend to Parliament that the interim order be revoked. An interim order can only be made if the act — and I just made that point — that contains the authority to make a regulation about that matter provides for the authority in the form of a regulation.

[Senator Day]

I would also remind honourable senators of the requirement, provided for in Bill C-7, for Governor-in-Council approval of the interim order. That approval must be within 14 days of the issuance of the interim order; otherwise, the interim order expires automatically. There is also a requirement for the tabling in Parliament within 15 days of the interim order being made and for the publishing of the interim order in the *Canada Gazette* within 23 days. Honourable senators will see there are many checks put in place to avoid potential abuse or free wheeling use of this proposed authority.

To turn to another complex area of the bill, the issue of disclosure of air passenger information to certain foreign countries has been raised by a number of senators. The Commissioner of the RCMP and the Director of CSIS indicated in their testimony before the committee that, before air passenger information could be shared with an official in a foreign country, under the strict disclosure regime in this bill, arrangements that set out privacy safeguards will be in place. CSIS already has a statutory process for entering into relations with foreign states and trading information. During her appearance before the committee, the Deputy Prime Minister committed to issuing a directive to the RCMP to have the same procedure in place to ensure they will do the same.

• (1530)

I remind honourable senators that Bill C-44, which dealt with the issue of providing passenger information to the United States, was passed in late 2001. We were required to pass that bill quickly in order to ensure that we could fly aircraft to the United States. The witnesses indicated that they anticipate similar requirements from countries within the European Community and others, in which event this legislation will provide for a framework and a model to ensure that there are proper controls on the exchange of that information. Of course, if an individual wishes to protect his or her privacy information, then he or she should not fly to that country.

Senator Lynch-Staunton: Stay home.

Senator Day: I will now talk about sharing of information with foreign governments, and I am talking about part 11.

[Translation]

Part 11 would amend the Immigration and Refugee Protection Act to allow for the making of regulations providing for the disclosure of information for the purposes of national security, the defence of Canada or the conduct of international affairs. These regulations would specify the conditions relating to the disclosure of such information, thereby protecting the handling of personal information by the Canada Border and Revenue Service Agency and the Department of Citizenship and Immigration.

Such regulations would, moreover, have to be laid before each house of Parliament and each house would refer the proposed regulations to the appropriate committee of that house. Honourable senators will find this provision in favour of

parliamentary overview and transparency in clause 70 of Bill C-7.

[English]

With respect to part 11, the committee heard that information sharing with foreign governments currently takes place within the confines of agreements and arrangements. They are for clearly defined and specific purposes and must be compliant with the collection, use and disclosure provisions as provided for in the Privacy Act.

In response to concerns raised by Senator Jaffer, representatives of the Canada Border Services Agency and Citizenship and Immigration Canada clearly stated that racial profiling is not an element of this program or any of their programs, nor is it condoned. If honourable senators believe that racial profiling is taking place on the ground, then that is an area we should investigate, but it is not a reason to not support this bill.

The RCMP and CSIS, as well as Citizenship and Immigration Canada, also stated unequivocally that racial profiling is not condoned or authorized in Canada. They do not collect data on religion, race or ethnic background. In fact, the process of automated advance screening, such as is the case with passenger information, ensures that all travellers are reviewed in a consistent and equal fashion. The information provided by commercial air carriers is used to identify suspected or known high-risk travellers and known inadmissible persons.

Another important issue raised by several honourable senators concerns the level of accountability and oversight applicable to CSIS and the RCMP. Pertinent to this, the deputy minister provided the following information:

A related commitment of the government was announced on December 12, 2003, was the creation of a new national security committee of parliamentarians, members of the House of Commons and senators, to review national security matters. It will be a joint committee.

This committee will be unique in the culture of the Canadian Parliament. They will be sworn in as Privy Councillors and members will have access to information that will not be normally available to others. We want to swear them in so that they can have access to a wide range of secret and confidential information....

This committee of parliamentarians is going to reflect a major departure in that it will be unique by being a joint committee, people sworn in as Privy Councillors, and to discharge their obligation on behalf of all Canadians.

This committee will have to be a non-partisan venue where everyone is focused on the safety and security of Canadians.

That is the end of the quote from Minister McLellan.

In addition, Mr. Justice O'Connor will be making recommendations on an independent review mechanism for the RCMP national security activities. Minister McLellan also indicated that she would be proposing that this new national security review mechanism be used to provide a review of the RCMP activities under proposed section 4.82 of the bill.

I would like to remind honourable senators that a number of specific review mechanisms are already in place to ensure that CSIS and the RCMP be held accountable for their conduct. The Privacy Commissioner may initiate an investigation on how the agency collects, uses, discloses, retains and disposes of personal information under section 37 of the Privacy Act. Other existing review mechanisms include the Office of the Auditor General, the Security Intelligence Review Committee, the Office of the Inspector General for CSIS, and the Commission for Public Complaints Against the RCMP. Of course, there are always committees of both the House of Commons and the Senate, which have authority to review various aspects of legislation and how that legislation is being implemented.

Proposed section 4.82 of the bill has generated a lot of discussion among honourable colleagues. It seeks to provide information on air travellers in order to better inform risk assessments. Under this proposed section, airlines and operators of airline reservation systems would be asked to share passenger information upon request with designated RCMP and CSIS officials to assess threats to transportation or national security. To ensure that the right balance between security and privacy is achieved, the proposed section requires that the Commissioner of the RCMP and the Director of CSIS appoint certain designated officials only to handle that information initially. It will not be for just anyone within their agencies. Those designated officials would match the passenger information against restricted information related directly to their respective mandates under the bill. They would also be authorized to disclose that passenger information to a third party only for very restricted purposes and only if certain thresholds of reasonable belief were met — for example, if they had reason to believe that the information would assist an aircraft protective officer with his or her duties.

• (1540)

Proposed section 4.82 provides a good model of how information can be used and how it can be shared. In assessing passenger lists, it is conceivable that certain passengers may be found to have outstanding arrest warrants issued against them by a judge. This information would be passed on to a peace officer for action.

Some honourable senators questioned this indirect activity of passing on information on individuals who had an outstanding arrest warrant issued against them. Draft regulations were made available to us that listed the offences for which passenger information could be used to assist in the execution of an outstanding arrest warrant. Each of those listed offences is subject to a penalty of five years or more and is either directly or indirectly related to the mandate of the RCMP or CSIS for national security.

[Senator Day]

As was indicated by the Minister of Public Safety and Emergency Preparedness, the current draft regulations tabled with the committee include very serious offences that could place the public at risk. These offences are linked directly to potential risks to transportation security and include violent and organized crime offences. They are reflected in the draft regulations because they relate specifically to the RCMP's mandate under 4.82 to assess threats to transportation security.

From a police perspective, a fugitive with a court-ordered arrest warrant for a serious offence such as murder, kidnapping, child abduction and drug trafficking could very well pose a threat to the safety of passengers on an aircraft. Again, these draft regulations have been tabled to provide honourable senators with an opportunity to respond and to ensure transparency.

As the Commissioner of the RCMP indicated to the committee, if we were to restrict the offences to terrorist acts only, the regulations would be of limited effectiveness because terrorists may not have a criminal record. If they do, it would be more likely be related to crimes such as forgery, fraud and organized crime. The regulations must support the RCMP's mandate under the bill to identify any person who could threaten transportation security in the context of its broader public safety mandate.

[Translation]

There were suggestions from some senators to defer passage of Bill C-7 until after Parliament had studied the anti-terrorism legislation and the investigation into the Maher Arar affair had been concluded.

The Hon. the Speaker pro tempore: Honourable senators, Senator Day's time is up. Does he wish to seek leave to continue?

[English]

Senator Day: Honourable senators, I would ask for your indulgence. I can finish quickly, but I do think it is important to go through this bill in detail, as it is an extensive bill.

The Hon. the Speaker pro tempore: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Senator Day: I apologize for running over the time allotted, but this is an extensive bill and some portions of it have not been properly aired heretofore. I wanted to spend some time talking about those aspects.

Senator Lynch-Staunton: Send it back to committee then.

Senator Day: I will now touch on Bill C-36 because that bill was often referred to in debate. This is not the review of Bill C-36 that will be taking place. However, we heard so much debate on Bill C-36 that I will touch on the relationship between the two bills.

Both of these bills, Bill C-7 and Bill C-36, represent appropriate legislative responses to the threat posed by a new reality of terrorism, which is clearly not a temporary phenomenon. Each bill focuses on distinct aspects of the fight against terrorism.

The Anti-Terrorism Act, which was Bill C-36, focused on bringing terrorists to justice, cutting off their financing, and discouraging them through incarceration and charges under the Criminal Code. Bill C-7 enhances Canada's comprehensive and balanced approach to national security and terrorism in transportation. It strengthens our ability to protect ourselves and respond to terrorist acts. It recognizes that terrorist acts are likely to take place, and it deals with how we will address those activities and how we might be able to prevent some of them.

Its first goal, to thwart acts of terror, is exemplified by provisions to protect air travellers by the exchange of information, which I talked about. The second goal is to respond to unpredictable acts of terror, which is the reason for the interim order authority.

For Canada, as well as many other countries, heightened and sustained vigilance is the new reality. We must remain vigilant to guard against the new threats.

Honourable senators, we heard compelling testimony in committee about the changing face, fluidity and unpredictability of threats to Canadian security. Air travel further facilitates the globalization of such threats. We have witnessed the horrors of September 11, Bali and Madrid.

Although Canada has not been the primary target, we are a named target. Heightened vigilance is critical. Bill C-7 will enable our law enforcement, security intelligence and border agencies to assess the threats that we are facing, to share threat information with our partners and possibly prevent an incident from happening.

We also need to ensure that the tools we use to prevent crimes and serious incidents remain appropriately balanced with fundamental interests such as privacy and human rights, and that they promote transparency and accountability. The proposals in this bill come at a time when it is imperative that Canada close what the Deputy Prime Minister has described as current legislative gaps with respect to national and transportation security. Bill C-7 will provide essential tools for safety and security. At the same time, our liberties will be safeguarded and our constitutional rights respected.

The Senate has played an extremely valuable role in reviewing this Public Safety bill. I should like to thank all of those honourable senators who participated in the Standing Senate Committee on Transport and Communications for their hard work in this regard.

There is no doubt that terrorist threats to transportation and national security remain a major concern. Enacting the proposed

provisions set out in this bill will help ensure transportation and national security for all Canadians, which is essential if we are to continue to enjoy the life to which we have become accustomed in Canada.

I would, therefore, respectfully ask all honourable senators to join with me in supporting Bill C-7.

Hon. A. Raynell Andreychuk: Honourable senators, will Senator Day accept questions?

Senator Day: If honourable senators will allow me more time, I will be pleased to attempt to answer some questions.

Senator Lynch-Staunton: We already have.

Senator Andreychuk: Honourable senators, the honourable senator started out his presentation, as did the minister, by reminding us of September 11. We had been told that the passage of Bill C-36 would be a response to the events of September 11. The honourable senator has phrased his remarks in such a way to imply that if we pass Bill C-7, with its broad, sweeping powers, Canada and Canadians will be secure. No government can give such an assurance and guarantee of safety, but a government may take steps which will provide a greater measure of safety.

• (1550)

Would Senator Day respond to the point made by the Canadian Bar Association? Mr. Simon Potter, former President of the Canadian Bar Association, representing the CBA, said:

The Canadian Bar Association sees no point in putting another anti-terrorism law on the books, particularly one so broadly drafted as this one, when Canada has not yet determined whether the current laws are now, or indeed ever were, absolutely necessary and when we have not yet assessed the impact already felt on our rights and freedoms.

Passage of Bill C-7 would further and needlessly complicate the critical task of deciding whether these quite unprecedented laws are needed.

We are not calling only for delay. Speaking to the merits of it, we see serious flaws in this proposed legislation. It condones violation of privacy by, for example, allowing police to peruse airline passenger records for a full week after the flight has landed. You have had witnesses come before you saying they want to prevent violence on the flight. That hardly accords well with the need to keep the records for a full week.

If the goal is to preserve the safety of the aircraft in flight, why not destroy the records within 24 hours? Why do we need to warehouse all this information in data banks? This provision gives police a week to comb through flight records for purposes that are wholly unrelated to fighting terrorism.

Why would we want, in the name of fighting terrorism, to give such broad sweeping powers in respect of not only terrorism but also in respect of all other purposes that may be negative or may be nefarious? Why do we cloak these measures in the name of fighting terrorism? Why has the government not heeded the plea of the Canadian Bar Association? Does the honourable senator believe that their questioning of and sincere concern about this bill is warranted?

Senator Day: I would thank the honourable senator for her question. I was present when the Canadian Bar Association appeared. I would have been more appreciative of their presentation had they dealt with specifics rather than generalities. Both ministers have said there are gaps in the framework of legislation and that this bill is absolutely necessary to fill those gaps and that it is urgently needed. The minister would have been well aware of Mr. Potter's position, which the minister does not accept.

To suggest that this is merely another piece of anti-terrorist legislation does a serious injustice to the work of many people over several years. There are 23 different pieces of legislation. Many amendments have been made to Bill C-7 through representations made by parliamentarians and through committee work prior to it coming before the Senate this final time.

We specifically asked the representatives of the RCMP and CSIS if seven days were adequate from the time information is received to the time they must deal with it. They indicated that was the minimum length of time, and that they would prefer to have the information for 28 days. The Commissioner of the RCMP and the Director of CSIS indicated that they could not complete their mandate in fewer than seven days.

For the Canadian Bar Association to say that this information would be used for many unrelated purposes is totally contrary to indicators in the proposed legislation. The bill specifically indicates for what purpose the information could be used and against what criteria the names could be matched. It is specifically outlined in the bill. To suggest otherwise is to suggest that there is a kind of conspiracy whereby information could be used for reasons other than those contemplated in the bill.

Senator Andreychuk: In fairness to the Canadian Bar Association, the honourable senator's representation of it and of all lawyers across Canada is a touch harsh, if I may be diplomatic. They specifically spoke to some of the problems with the bill, which would allow the police to take our records not only for flight safety reasons but also to conduct for criminal record searches. The information could then be given to other police services, such as the FBI and the CIA, as well as to any other country's representative with whom we would choose to make an arrangement. This information could be blanketed everywhere.

Ministerial officials rightly said that, once the information leaves our borders, we have no control over it. It could be used for any purpose after that. Under this, they are entitled to share the information with the Canada Revenue Agency and with

Citizenship and Immigration Canada. It casts a rather wide net. The Canadian Bar Association and I are making the point that perhaps parts of the proposed legislation are needed to deal with air rage, hoaxes and to uphold international treaties, but the proposed provisions are so sweeping and so broad that we would give a mandate to ministers to invoke emergency powers with very little specificity in the act. Would that withstand a constitutional challenge by the Canadian Bar Association and others?

Senator Day: I thank the honourable senator for her follow-up question. I certainly was not intending to be harsh on the CBA, of which I am a long-standing member. Rather, I was looking for the right words to describe my impression of their presentation. It would have been more helpful for me, and I think for members of the committee, had they spoken to the clauses specifically as they appear. So much time was spent on generalities and on the broad subject of national security and anti-terrorism as opposed to dealing with what this proposed legislation will do.

The RCMP and CSIS will deal with any information in accordance with their respective mandates only. Specific rules apply regarding with whom those organizations can share information that they think should be passed on and under what circumstances. The minister has stated clearly that protocols and agreements would be in place, internationally and nationally, as to how and to whom that information could be passed. Many good points are dealt with in this bill.

• (1600)

CSIS came to us and said, "We are in the business of sharing information and have been doing so since we were created." We know that.

This is a good model with many more checks and balances than we have had in the past. We should hold this up as a good example of where we would like to go and expand it into other areas. We are dealing now with just the Aeronautics Act.

Senator Andreychuk: Honourable senators, this measure does not just cover aeronautics, although that is a subject to which I wish to return. It gives many ministers broad and sweeping powers that are not defined. They are tantamount to an emergency, when the minister deems it. It would allow interim orders to be used instead of regulations that must pass through the normal scrutiny.

The government says it is concerned about having the right checks and balances, yet it has given broad and sweeping powers instead of incorporating into the regulations what it requires. We are used to regulations. We are used to the provisions of the Emergency Measures Act. Instead, the government is using a shortcut to give to the minister the same powers. The minister simply has to invoke an interim order.

Why are there three exemptions from the Regulations Act? One covers the Canadian Charter of Rights and Freedoms. Why were those made exempt from the Regulations Act if we are trying to find a balance?

While I am on my feet, perhaps I can ask another question which is less legalistic and which deals with something we did cover in committee. We did not have time to get into the legal questions. The honourable senator is absolutely right. By the time we had dealt with the broad policy issues, it seemed as if the time to study this very legal and intricate bill was running out.

We heard from representatives of Air Canada, Air Transat, WestJet, other small airlines and the aviation association. They questioned the effect this bill will have on a very fragile industry. If we pass Bill C-7, they indicated that the government will be entitled to seek all this information from the airlines or from travel agencies and that they will be obliged to provide it. This will create an unnecessary, added cost to what they believe has to do with flight security. It will be after a plane takes off that this information will be disseminated and held for seven days. The small airlines are saying that they simply do not have the capacity, the capability or the technology to comply with this measure.

Their second problem was that the government has not provided a plan or costing. The inference in this bill is that the airlines will have to suffer these costs. Air Canada pointed out that after 9/11 it has cost them a minimum of \$100 million to put in place a platform to handle these operations. That platform will be obsolete if this bill is passed. There is no assurance that the government will share the costs or, at the very least, a plan with them. They said there has been very little discussion about it.

Why would we give such broad and sweeping powers to a minister when such powers could jeopardize our air travel? I am not talking about international flights but, for example, a flight from Regina to Toronto or a flight from Lethbridge to Calgary. All this information about Canadians will be picked up.

How will we respond to the cry from those in the airline industry that they cannot manage this bill? This measure follows the Auditor General's report wherein it is indicated that as far as what the government has been mandated to do, they are neither technologically up to speed nor have the financial or human resources to take care of what exists already. We are spreading them even thinner with the illusion that Canadians will be safer.

I am sorry to bunch all my questions together. There are at least 1,000 questions that have not been answered.

Senator Day: I thank the honourable senator for her 1,000 questions. I will choose from those questions a couple to which I think I can reply.

Earlier, I was talking about the exchange of information under the proposed section of the Aeronautics Act. The honourable senator moved from that proposed section to interim orders. Interim orders are not a new concept. They exist under the current law in the Aeronautics Act and in the Canadian Environmental Protection Act. The concept is an existing one. When an emergency situation is perceived and quick action is needed and there is not a regulation in place, then the minister or deputy minister can make an interim order. This can only happen when, for whatever reason, there is not a regulation in place, perhaps because the situation had not been anticipated.

There are many checks on such an order. It must be filed in both Houses of Parliament within 15 days. It must be approved by the Prime Minister within 14 days. It can be challenged by the Standing Joint Committee of the Senate and the House of Commons for the Scrutiny of Regulations. There are many checks on that particular provision.

The most important check is that, first, the order cannot be made if there is not a statutory and regulatory basis for it. Second, one cannot be charged with violating it until it is brought to that individual's attention, even though it is in existence. There is much protection for the individual in this measure.

The issue of small airlines brings us back to proposed section 4.82. It is important for honourable senators to know that there is a schedule at the back of Bill C-7, page 104. It outlines the maximum information that the Commissioner of the RCMP or the Director of CSIS may reasonably require.

If honourable senators would turn to the bill, they will see that it provides that the commissioner or a person designated may require any air carrier or operator of an aviation registration system to provide information that is in the air carrier's or operator's control. There was a debate in committee as to what control meant. Certainly, the argument can be made, and it was agreed by the departmental people when I asked that specific question, that this does not force them to gather all the information that appears in the schedule. It is only such information that is in the schedule and that they have in their control that they may be required to give up. This provision does not force them to do something that they are not already doing.

The objective is to move them along and to get to the stage where the information that they do have can be readily passed on to others, to the RCMP and to CSIS. In that regard, the government has said that they have had lots of consultation and will conduct more.

It may turn out that a small operator is not able financially to put that information in place. Undoubtedly, if the government really wants it, they cannot force that operator to give them the information. If the information cannot be given to them without having certain equipment in place, then undoubtedly some accommodations will be made.

Senator Andreychuk: It was made absolutely clear that the schedule to which the honourable senator refers contains the items that the government shall want and that they can mandate the carriers to collect it. Therefore, it will be in the control of the airlines once they are asked to collect it. As the airlines said, this will stop any purchase of tickets at airline counters because they will not be able to handle this kind of information.

• (1610)

The whole point is that this information will be self-acknowledging information. In other words, an individual could say, "I am Mary Smith and I was born in 1954," and that is the information the police will spend their time searching. It will not match up to who I am and what I look like. However, that is the

information that will be triggered. Honourable senators will also agree, I suspect, that a terrorist will not identify himself or herself as a terrorist. The individual will probably use an alias and then disappear into the fabric of Canadian society. Nevertheless, the police will be scanning literally thousands of pieces of information on honest citizens. We will have the same set-up that we had on the gun registry, where we will spend all our time licensing citizens who comply with the law, while we do nothing about the criminal element that is using the guns on the street.

Will we not end up having the police running around looking at records on citizens instead of putting their resources into intelligence networks to find the terrorist cells and the terrorist activities?

Senator Day: Honourable senators, I do not agree with the honourable senator that CSIS or the RCMP can force the collection of this evidence. My reading of this proposed section is that they may require such information that is in the air carrier or operator's control. Senator Andreychuk and I can argue about what the word "control" means, but the honourable senator said force them to collect, and that is different from what is in their control.

Could the honourable senator please repeat her second question?

Senator Andreychuk: Honourable senators, in a nutshell, the names of average Canadians who travel all the time will be scanned. The authorities will have a monumental task sifting through all the information, when in fact the resources of the police, of CSIS and of the government would be better utilized in targeting terrorists and terrorist activity. In other words, this self-generating information from passengers will be information about honest citizens who happen to need to fly in such a large country. An individual who must travel, say, from Ottawa to Regina has almost no alternative but to fly. Would we not be better to marshal our resources, in light of what the Auditor General said and our own Senate committee said: Target the terrorist activity; do not target Canadians and have the resources deflected on needless information shifting and sifting, and causing perhaps the downfall of some airline?

Senator Day: I appreciate the honourable senator helping me with the second part of her question.

The way this process was described to us was that the RCMP and CSIS will have designated individuals who will have a very restricted database of individuals who could potentially cause difficulty with transportation security or are a menace to national security, depending on the department or agency. Restricted individuals will look electronically at a restricted database. In other words, the information will come in and names will be run through a computer. Designated individual will only look at the matched information, when a name comes out on who is flying on that aircraft that day against the restricted database of potential problem individuals. If there is a match, there will be further investigation.

[Senator Andreychuk]

I do not have the same concern that the honourable senators has that the RCMP as an agency will become bogged down in a bunch of paper. They have already thought that one through.

Senator Andreychuk: As a supplementary, the honourable senator says that it will be electronically matched. The United States is attempting to do CAPPs II, which is just that, to match up the data, and they have not been able to perfect that technology as yet. Do we have that kind of technology? In light of what the Auditor General has said, that RCMP data about forged and false and missing passports cannot be uploaded to the equipment being used by port authorities, that it has to be transcribed manually, it is no wonder there is such a backlog and that our border are not safe. We do not have the necessary technologies. This all sounds good on paper, but it is not working.

Senator Day: I thank the honourable senator for that question. I believe that Canadian technological ingenuity will lead the way in this regard. I have no doubt that we will be able to help our American friends if they are having difficulty performing this.

On motion of Senator Andreychuk, debate adjourned.

CRIMINAL CODE

BILL TO AMEND—THIRD READING— DEBATE ADJOURNED

Hon. Mac Harb moved third reading of Bill C-14, to amend the Criminal Code and other Acts.

He said: Honourable senators, I understand there is consent with regard to this bill that no honourable senators have indicated an interest in speaking. In light of that, perhaps we can proceed with third reading.

Hon. Terry Stratton: Honourable senators, I would ask the honourable senator to repeat that explanation, because I did not catch it. It is our understanding that the government side will speak today and that Senator Nolin will speak tomorrow.

Senator Robichaud: He just spoke.

Senator Lynch-Staunton: He is still in the other place. They do not debate there.

Senator Harb: Honourable senators, I do not have much to add to my initial speech. If the honourable senator is interested in speaking at any point in time, that would be quite fine with us.

On motion of Senator Nolin, debate adjourned.

CRIMINAL CODE

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Jaffer, seconded by the Honourable Senator Léger, for the second reading of Bill C-22, to amend the Criminal Code (cruelty to animals).

Hon. Terry Stratton: Honourable senators, I want to talk about the history of Bill C-22. This bill was numbered Bill C-10B in the Second Session of Thirty-seventh Parliament and died on the Order Paper when Parliament was prorogued. It was reintroduced as amended on June 6, 2003.

Bill C-10B had a lengthy history. In the last session, it was part of Bill C-10, which the Senate split in December 2002 into two parts. Bill C-10A dealt with the firearms program that was passed in the last session, while Bill C-10B dealt with cruelty to animals and amendments thereto.

Bill C-10 reintroduced the same provisions as Bill C-15B, which died on the Order Paper at the end of the First Session of the Thirty-seventh Parliament without making it to Senate committee stage.

• (1620)

Bill C-15B, in turn, had reintroduced several provisions that were part of Bill C-17 and Bill C-36. Both died when the Thirty-sixth Parliament was dissolved on October 22, 2000, without passing second reading in the House of Commons.

The Standing Senate Committee on Legal and Constitutional Affairs proposed five amendments to Bill C-10B on May 29, 2003. The first amendment dealt with the definition of an animal. The original definition included "any other animal that has the capacity to feel pain." The amendment cuts off the definition after the words "other than a human being." This amendment was accepted by the House of Commons on June 6, 2003.

The second amendment dealt with the unnecessary death of an animal. It deleted the offence of "killing without lawful excuse" and added the element of "causing unnecessary death" to the offence of causing pain or suffering to an animal. Concern was raised with regard to whether or not lawful killing would still be an exception. The argument put forth by the Liberal's Paul Macklin on June 6, 2003, was that:

The term "unnecessary" has been judicially interpreted in the context of "pain." In essence, it means that "no more pain than is reasonably necessary taking into account the objective sought."

Mr. Macklin argued that the word "unnecessary" could not be logically applied to killing where the only relevant question is whether or not there was good reason for killing.

The Senate feels, given a ruling by Justice Sopinka in *R. v. Jorgensen*, that the use of a provincial permit is not valid when it comes to breaching a federal statute such as the Criminal Code. The House rejected this amendment twice — on June 6, 2003 and September 25, 2003.

The third amendment dealt with Aboriginal hunting, trapping or fishing rights that would clarify that no Aboriginal person would be convicted of an offence if the pain, suffering, injury or death is caused in the course of traditional hunting, trapping or fishing practices, provided that any pain, suffering or injury

caused is no more than is reasonably necessary in carrying out traditional practices. The House rejected the Aboriginal amendment, saying that Aboriginal people, if charged, would have the protection of section 35 of the Constitution. Further, the House argued that it would be confusing for police to know what are traditional practices before laying a charge.

The fourth amendment provided the legal justification or excuse and the colour of right defence. This means the accused "must show that he believes in a state of facts which, if it actually existed, would constitute a legal justification or excuse." That is found in Martin's Criminal Code. The House of Commons accepted the amendment.

The fifth amendment, which was accepted by the House of Commons, corrects the line in the French version of the bill.

The current penalties for cruelty to animals are found in sections 444, 445 and 446 and 447 of the Criminal Code and are treated as "wilful and forbidden acts in respect of certain property," as provided in part XI of the Criminal Code. A person found guilty of cruelty to an animal is liable to six months in jail and a fine of \$2,000. These provisions have not been amended since 1982.

Recently, several incidents involving cruelty to and mistreatment of animals have raised the public's indignation. In 1998, the Department of Justice held consultations to completely revise the way in which the system dealt with the problem. Government officials say that this examination was justified by a series of studies showing that cruelty to animals may be a precursor of violent behaviour toward people.

The government says that Bill C-22 is a reflection of Canadian indignation for the mistreatment of animals. The amendments proposed in Bill C-22 do not target usual and acceptable animal care practices, in particular, animal husbandry, responsible use of animals in research or other practices governed by more specific legislation. The concern expressed by witnesses at the committee were, for example, that researchers would be under threat by this bill. They did not feel comfortable with it whatsoever and wanted it amended. As well, fairs, festivals and rodeos across the country expressed concern that there would be severe restrictions placed on them to conduct such events as the chuckwagon races at the Calgary Stampede. Those concerns were expressed at committee and amendments were proposed.

That completes my remarks, and we will see what happens in committee again.

[Translation]

Hon. Fernand Robichaud (The Hon. the Acting Speaker): Honourable senators, it was moved by Senator Jaffer, seconded by Senator Léger, that Bill C-22 be now read the second time. Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

[English]

An Hon. Senator: On division.

Motion agreed to and bill read second time, on division.

[Translation]

REFERRED TO COMMITTEE

The Hon. the Acting Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Rompkey, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

[English]

BUSINESS OF THE SENATE

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, with leave of the Senate, I ask that Bill C-3, to amend the Canada Elections Act and the Income Tax Act, which is set down on the Orders of the Day for Wednesday, April 21, be brought forward now.

[Translation]

The Hon. the Acting Speaker: Is it your pleasure, honourable senators, to adopt the motion that Bill C-3 be considered today?

Hon. Senators: Agreed.

[English]

CANADA ELECTIONS ACT INCOME TAX ACT

BILL TO AMEND—SECOND READING— DEBATE ADJOURNED

Hon. Terry M. Mercer moved the second reading of Bill C-3, to amend the Canada Elections Act and the Income Tax Act.

He said: Honourable senators, last June the Supreme Court of Canada handed down the decision in the *Figuroa* case. He was the leader of the Communist Party of Canada. I know him, having met him in my former capacity when I sat on the advisory committee of political parties to the Chief Electoral Officer. I find him a charming gentleman and a well-meaning fellow. If you get a chance to meet him, I think you will agree.

The Supreme Court ruling struck down the central feature of our system of political party registration, namely, the requirement that a political party field at least 50 candidates. To give Parliament time to respond, the court suspended its ruling for one year. That suspension expires on June 27. It is important that new rules be in place by that date to ensure that our electoral system remains fully operational and that it is not open to abuse. The purpose of Bill C-3 is to deliver a timely response to the Supreme Court decision.

Honourable senators, I believe that Bill C-3 provides a balanced, targeted and effective response, and I am very pleased to sponsor the bill in the Senate. While I am sensitive to the concerns that this chamber be allowed sufficient time to do its work and that it not be asked to act with undue haste, the fact remains that the courts deadline looms. I ask honourable senators to give this legislation their early consideration and support in order to safeguard the integrity of the electoral system.

In striking down the 50-candidate requirement for party registration, the Supreme Court's decision calls for a re-examination of key principles underlying political registration in this country. The essence of the court's ruling is what defines a political party. It is more than simply the number of candidates it runs. The decision makes it clear that under the Charter of Rights, a strictly numerical candidate threshold is not a valid measure of whether a party is genuine or not. Instead, the ruling looks to the fundamental role that political parties play in a democratic process as vehicles of political expression, debate and participation. As the decision makes clear, a party is more a function of ideas and objectives than an arbitrary number of candidates per se.

• (1630)

The court did not go on to provide a recipe for what constitutes a party. Frankly, it left that job to Parliament and gave us a year to devise a new approach. Bill C-3 is the first, and I underline first, culmination of these efforts. It is a critical first step toward a new framework for political party registration in Canada, and there will be further steps in the future.

With the elimination of the 50-candidate rule, we are faced with two key challenges: first, to come up with new ways of defining what a party is; and, second, to distinguish legitimate parties from groups that might seek to register to take advantage of the system, in particular the tax credits for contributions.

To achieve these goals, Bill C-3 contains two fundamental pillars: first, new party registration and accountability measures; and, second, a series of measures to prevent abuse.

The result is to replace the 50-candidate threshold with a purpose-based approach that is consistent with the Supreme Court decision but at the same time preserves the integrity of the electoral system. As such, the bill not only responds to the June 27 imperative of the Supreme Court decision, but it does so in a way that makes good sense in policy terms. This is a classic case where the Charter reinforces the instincts of sound public policy.

Honourable senators, Bill C-3 will, for the first time, add a definition of political party to the Canada Elections Act. I expect most Canadians and perhaps even some members of this place will be surprised to learn that no such definition has existed to date. Now, however, a political party will be defined by reference to its purpose, whether it seeks to participate in public affairs by fielding one or more of its members as candidates. A party must have this as one of its fundamental purposes in order to register and to remain registered. The party's leader and its officers must attest to and ensure adherence to that purpose.

I know the constitution of the Liberal Party of Canada inside out and have had the opportunity to write some of it, but I have taken the time to read the constitution of the Conservative Party of Canada and also the constitution of the former Progressive Conservative Party. Actually, I found there is no constitution but there is an agreement. I have read the constitution of the two unified parties, the Alliance and the old Progressive Conservatives, to find out that all three of these parties would qualify under the new rules as long as we pass the threshold I am about to outline.

Parties will have to satisfy other new criteria as well. For example, Bill C-3 increases the number of members a party must have, from 100 to 250.

Senator Stratton: The Hells Angels can do that.

Senator Mercer: That is true, and any one of its chapters. That is why we have other protections to prevent them from registering. I will get to that.

Bill C-3 also requires that those members sign declarations that they support the party's registration. This assures that there will be a critical mass of real members to support the party's commitment to electoral competition.

As well, parties will have to have a minimum of three officers in addition to the leader, and these officers will also have to provide their signed consent to act. Like the membership provision, this ensures that the party is not a one-man band and that it has an organizational nervous system that one would expect of an entity that would wish to call itself a party.

I would argue, honourable senators, that these are more meaningful criteria by which to measure parties than the 50-candidate rule the court struck down. They are more consistent with our evolving democratic values.

Honourable senators, we are all troubled by the serious decline in voter turnout in recent years and other symptoms of democratic disengagement among Canadians. While I do not suggest that Bill C-3 will single-handedly solve these problems, I do believe that it can make an important contribution by opening up party registration to more players and ensuring a fuller spectrum of ideas in political debate. It creates an opportunity for greater voter choice. This increases the chances that voters will see their ideas, priorities and values reflected in the electoral choices available to them. This is particularly true of those who traditionally feel alienated or disconnected from the political process. I also believe it will help citizens reconnect with parties currently in existence. A greater diversity of parties reflects the pluralism of Canadian society and promises to invigorate electoral competition and debate.

Honourable senators, I have spoken about Bill C-3 in terms of its new rules for party registration and the move to a purpose-based approach. As I also mentioned, however, the second pillar of the bill is a series of measures to prevent abuse. Of course, despite its many advantages, opening up the system of party

registration to more players also carries certain risks. That is why there must be an appropriate balance to ensure that parties seeking to register are genuine and not simply groups masquerading as parties to take advantage of the tax credit and other benefits of registration.

I have already identified some of the bill safeguards, such as the purpose-based definition and stricter membership and party officer requirements. Beyond these measures, the bill contains provisions designed specifically to identify and weed out fraudulent parties. Foremost among these is a provision that allows the Commissioner of Canada Elections to require a party to satisfy him that it is genuine and meets the definition, failing which the commissioner may apply to the court to deregister the party. Very important, while such an application is pending, the ability of the party to issue tax receipts for contributions will automatically be suspended. If the court deregisters the party, it could also order that it be dissolved and its assets liquidated. Officers of a fraudulent party could be held civilly and criminally liable. I submit that these safeguards are important in that the process of registration would be taken seriously in light of the consequences of inaction.

The other key anti-abuse measure I want to highlight relates to the distinction between political parties and interest groups. The blurring of this distinction was one of the key concerns about the potential impact of the Supreme Court ruling. If interest groups were simply able to register as political parties, then the third-party spending limits would become meaningless. I have a long history of supporting limits and regulations for third parties. As a private citizen, I made a presentation to the Lortie commission in support of that.

Bill C-3 responds to this concern by preserving a clear separation between political parties and third parties. Specifically, it prevents an interest group from creating a shell party in order to take advantage of the political party tax credit and then flowing the money back to the parent organization. This will allow interest groups to reap the benefits of party registration while avoiding the burdens. The bill prevents this flow-through of funds and contains other measures to keep the distinction between political parties and third parties clear. For example, it prevents political parties from soliciting or accepting contributions on the expectation that they will be transferred to a sister third party.

Honourable senators, in the time that remains, I would like to address why time is of the essence with this legislation and what this implies. The fact is that the Supreme Court ruling will take effect June 27 whether or not replacement rules are in place. The deadline we face as parliamentarians is not one imposed by the government but one flowing from the decision itself.

• (1640)

It is no secret that, under Canada's parliamentary system, the electoral machinery must remain fully operational at all times. Just read the papers. Should the *Figueroa* ruling take effect without a new party registration regime in place, there will be a major gap in our system. At best, there will be confusion and uncertainty; at worst, litigation and chaos. Bill C-3 is designed to avoid this, without purporting to be the last word.

That last point is critical. The government has made it clear from the outset that parliamentarians should have a further opportunity to consider the consequences of the *Figueroa* ruling. That is why, on the same day he introduced the legislation in the other place, the Leader of the Government and the Minister responsible for Democratic Reform asked the Standing Committee on Procedure and House Affairs to undertake a broader examination of the Canada Elections Act and the electoral process generally. The government continues to reiterate the importance of that broader review and has asked the committee to bring back recommendations in the form of draft legislation within a year.

As well, the government moved an amendment at committee stage to add a two-year sunset clause to the bill. This means that the provisions of the bill will expire two years after they come into force, thereby ensuring that Parliament will have the opportunity to revisit these issues in the near future and, obviously, post-election as well. This reflects the ever-changing process of democracy. By including this clause, we ensure that the legislation may and will improve. Thus, Bill C-3 is really a bridge to a more wide-ranging review. It provides a targeted and timely response to the Supreme Court ruling while creating room for Parliament to undertake a more thorough examination.

Honourable senators, far from forcing parliamentarians' hands, this is about preserving our role and ensuring that we have a workable electoral system in the meantime. The June 27 deadline looms and we need new rules to ensure that our electoral system remains complete and fully operational. Ultimately, Bill C-3 is about balancing a more open system of party registration with measures to prevent abuse, about respecting and implementing the Supreme Court ruling while preserving the integrity of our electoral system, and about ensuring a timely and targeted response that meets the Supreme Court deadline while ensuring the opportunity for further review in the future.

This legislation is not only legally and operationally necessary; it is both sound and beneficial in policy terms. I urge honourable senators to give it the strong support it deserves.

Some Hon. Senators: Hear, hear!

Hon. John Lynch-Staunton (Leader of the Opposition): Will the honourable senator take a question or two?

Senator Mercer: Yes.

Senator Lynch-Staunton: Can the honourable senator confirm that, during the court proceedings, at some stage, Mr. Rowe offered to withdraw his action if the government agreed to a figure of 12? Yet the government insisted in fighting to maintain the 50-candidate rule? Much to the government's surprise, the Supreme Court said that the number of 50 was not Charter-proof and that, therefore, one person is enough to form one recognized party. Is that not the result? You are claiming now that this is a wonderful improvement to the act, but it actually goes against all

the government's intentions, which included maintaining the 50-candidate rule. Mr. Rowe would have been satisfied with 12 but the government insisted and that is why we are faced with this bill.

Senator Mercer: Honourable senators, I was not a party to that decision. I do recall the debate. The number 12 is significant because, in the other place, you need 12 members to maintain official-party status and one of the arguments was based on that rule.

In reality, the government felt that we needed a cut and dried answer. The argument was that if we settled upon 12, other smaller parties might decide to challenge that number and we would be back in court again, forced to defend it.

Now we have the decision. We are implementing it. I think that we are moving forward. Is this how we wanted it to end up when we began, way back when? Probably not, but that is what the court has told us.

Senator Lynch-Staunton: The court has told us that the government was pig-headed and would not compromise; it went for the number of 50 and it lost. Now we are stuck with this mess and it is a mess. No matter what you call them, they are not safeguards. Anyone who meets so-called minimum requirements, like 250 members, four officers and an office, telephone and fax machine, needs only one candidate and he is eligible to register a party. We are encouraging the creation of regional, fractional parties. That is not what we want. A country like ours does not need that. We have had enough of regional parties so far. Some of us have learned that to our — I will not add any more.

I fail to understand why the government, having had since last June to implement this bill, only brings it to the Senate today, two months before the deadline. We are being asked to rush it through. This is a stopgap measure, if I understand the honourable senator's presentation. More elements of the act will be changed to improve on this provision. Why does the government not ask the Supreme Court to extend the deadline by another 6 or 12 months so that this matter can be looked at with all the time needed? Once it is in place, with an election looming, this country will be faced with a confusing electoral system. That is not the purpose nor the intention of Parliament, I would hope.

Senator Mercer: With respect to asking the court to provide a delay, that would not give us a system by which to govern ourselves. With respect to regional parties, I do not necessarily disagree. The proliferation of small political parties is not something that I would desire. I remind the honourable senator that he, for a time, was the leader of a party that merged a strong national historic party and a party that arose out of a regional party, being the Canadian Alliance-Reform movement.

The honourable senator says that regional parties are not what we want. As a Liberal, I can say we certainly do not want them. However, the success of the Reform-Canadian Alliance, having now formed the official opposition and having merged with what I would consider the more historical, traditional Progressive Conservative Party, shows there is a place in Canadian politics for parties that grow out of regions.

We all started somewhere. They started there. If we do not have rules in place as we face the election that is rumoured to be coming up in the next few weeks or months, as I said in my closing remarks, there is a chance that we will have some abuse by pranksters and third parties who want to take advantage of the very lucrative tax credit that we have for funding political parties.

Senator Lynch-Staunton: I have one last question and a quick comment. This bill does not encourage the creation of national parties; it encourages the creation of nuisance parties for very narrow purposes.

If the bill must receive approval by June 27, why is there, at the end of the bill, clause 27(2):

If this Act receives Royal Assent on a day that is after June 27, 2004, it comes into force on that day.

That implies we can pass the bill before the end of June but Royal Assent can be withheld. Why is that clause there? If this bill has to be law by June 27, that includes Royal Assent. It says that if Royal Assent comes later — it could be a day later or a year later — the bill will come into effect on the day Royal Assent is given.

• (1650)

Senator Mercer: Honourable senators, I am not a parliamentary expert, but I would suggest that it means that, if for some reason we do not pass it until June 28, then it will come into effect on that day. It will come into force when it is given Royal Assent.

Senator Lynch-Staunton: That is right.

Senator Mercer: I have often heard members of the opposition in this place and in the other argue against retroactive legislation. If the suggestion is that the act come into effect retroactively — that is, if we do not pass it until July 15 and make it retroactive to June 27 — I do not think it is practical or reasonable.

Senator Lynch-Staunton: If it is essential that it come into force on June 27 to respond to an instruction from the Supreme Court, why would we allow this loophole that allows for an indefinite delay in Royal Assent?

It has nothing to do with retroactivity. Retroactivity would be to make it effect as of June 27. In effect, this will come into effect on the day Royal Assent is given. Royal Assent need not be given to bills. It can be refused or delayed. Unless the Governor General or her representative receives the bill, Royal Assent cannot be given. Parliament can decide not to pass it on. This loophole requires some explanation.

Senator Mercer: I can assure Senator Lynch-Staunton that between now and the time the matter is raised in committee, we will do some homework so that we may provide a more detailed answer.

Hon. Terry Stratton: I have one question before I move the adjournment of the debate.

In the view of the honourable senator, is this not the first step along the track to proportional representation?

Senator Mercer: No, I would not be sponsoring the bill if I thought it led down that road. As a representative of the advisory committee of the Chief Electoral Officer, I argued strenuously against proportional representation, which was supported by some of my honourable colleagues new friends and by the New Democrats. It is not something in which I have any interest, and I do not think it is necessarily something in which my old friends in the old Progressive Conservative Party were interested. I am still against it and will retain that stance.

Senator Stratton: I am of the other view. It is the 21st century and I believe we should have proportional representation now.

On motion of Senator Stratton, debate adjourned.

[Translation]

BILL TO CHANGE NAMES OF CERTAIN ELECTORAL DISTRICTS

SECOND READING—DEBATE ADJOURNED

Hon. Fernand Robichaud moved the second reading of Bill C-300, to change the names of certain electoral districts.

He said: Honourable senators, I see that this bill has been on the Order Paper fifteen times now, which means that if it is not debated today, it will be struck from the Order Paper.

This bill originated in the House of Commons. I would like a bit more time to consider it and make sure it is not simply struck from the Order Paper. I fear that, at some point, the favour might be returned. I want to verify the facts. That is why I move that the debate be resumed at the next sitting of the Senate.

On motion of Senator Robichaud, debate adjourned until the next sitting of the Senate.

The Hon. the Speaker *pro tempore*: Honourable senators, pursuant to the order adopted by the Senate on April 1, 2004, the sitting is suspended until 5:15 p.m., later today.

• (1710)

[English]

CRIMINAL CODE

BILL TO AMEND—THIRD READING— MOTION IN SUBAMENDMENT—VOTE DEFERRED DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Joyal, P.C., seconded by the Honourable Senator LaPierre, for the third reading of Bill C-250, to amend the Criminal Code (hate propaganda),

And on the motion in amendment of the Honourable Senator St. Germain, P.C., seconded by the Honourable Senator Stratton, that the bill be not now read a third time but that it be amended, on page 1, in clause 1, by replacing lines 8 and 9 with the following:

“by colour, race, religion, ethnic origin or sex.”

On the subamendment of the Honourable Senator Tkachuk, seconded by the Honourable Senator Gustafson, that the motion in amendment be amended by adding, before the words “ethnic origin,” the words “national or.”

The Hon. the Speaker pro tempore: Call in the senators. The vote will take place at 5:30 p.m.

• (1730)

Motion in subamendment negated on the following division:

YEAS THE HONOURABLE SENATORS

Angus	Keon
Carney	Lynch-Staunton
Cochrane	Merchant
Comeau	Plamondon
Cools	Rivest
Di Nino	Sparrow
Forrestall	St. Germain
Gustafson	Stratton
Kelleher	Tkachuk—18

NAYS THE HONOURABLE SENATORS

Adams	Joyal
Atkins	Kirby
Austin	Lapointe
Bacon	Lavigne
Callbeck	Lawson
Chaput	Losier-Cool
Christensen	Maheu
Cook	Mahovlich
Day	Mercer
De Bané	Moore
Fairbairn	Morin
Ferretti Barth	Munson
Finnerty	Murray
Furey	Phalen
Gauthier	Robichaud
Gill	Rompkey
Hubley	Spivak
Jaffer	Watt—36

ABSTENTIONS THE HONOURABLE SENATORS

Corbin	Sibbeston—2
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Hon. Joyce Fairbairn: Honourable senators, I ask for leave to revert to Notices of Motions.

Hon. Jack Austin (Leader of the Government): Do we not continue the debate?

Hon. John Lynch-Staunton (Leader of the Opposition): We are on Bill C-250.

Senator Austin: We now go to the motion in amendment.

The Hon. the Speaker pro tempore: Is leave granted, honourable senators?

Hon. Senators: No.

The Hon. the Speaker pro tempore: Leave is not granted.

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, there have been discussions. As I understand, we will continue debate on the motion in amendment to Bill C-250.

This is not a government bill; it is a private member's bill. I would make a suggestion to find if there is consensus in the chamber to balance the two issues of the lateness of the hour and that senators wish to speak. There will be more time later to debate this bill.

I propose that we begin debate on Bill C-250 and continue until 6:30, at which time we then adjourn debate to the next sitting of the Senate, if that is agreeable.

The Hon. the Speaker pro tempore: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Hon. W. David Angus: Honourable senators, I move the adjournment of the debate on Bill C-250.

[Translation]

The Hon. the Speaker pro tempore: It was moved by Senator Angus, seconded by Senator Stratton, that the debate be continued at the next sitting of the Senate.

[English]

Is it the pleasure of honourable senators to adopt the motion?

Some Hon. Senators: No.

Some Hon. Senators: Yes.

The Hon. the Speaker pro tempore: Will those honourable senators in favour of the motion please say “yea”?

Some Hon. Senators: Yea.

The Hon. the Speaker pro tempore: Will those honourable senators opposed to the motion please say “nay”?

Some Hon. Senators: Nay.

The Hon. the Speaker *pro tempore*: In my opinion, the "nays" have it. Resuming debate with the Honourable Senator Angus.

Senator Angus: Honourable senators, I rise this evening on the subject of Bill C-250, to amend the Criminal Code regarding hate propaganda, and on Senator St. Germain's amendment to this bill.

When Bill C-250 was first introduced in Parliament, I was rather uneasy about it. I felt it to be bad law and not for the purposes intended, as honourable and sensitive as they may have been.

In my view, there are ample and effective provisions in existing Canadian law to protect all individuals on an equal level. This bill strikes me as unnecessary and one that has the potential to lead our justice system down a path that we do not necessarily wish it to follow. The bill could possibly open the floodgates to unintended and undesirable consequences. Indeed, it makes me think of the old maxim of *inclusio unius est exclusio alterius*, as well as the old adage that two wrongs do not make a right.

I concede that the purport of Bill C-250 is politically correct. However, in fact tends to accomplish that which it is designed to protect against. It does not establish equality before the law, but rather it creates inequalities between people based upon differences. Bill C-250 raises issues fundamental to the basic fibre of our country.

• (1740)

Canada is a diverse, pluralistic and tolerant society, one of which we are all proud. As Canadians, we are proud of this rich tapestry, as it has come to be called. Our country and citizens welcome fundamental differences. We embrace variety and we cherish the cultural, racial and other diversity that defines our great nation.

Honourable senators, the underlying basis of our style of democratic society is that individuals are recognized as equal, with equal rights, and the relations and relationships amongst our people are governed by the rule of law. It is in my view difficult to find fault with the words of Thomas Jefferson, who, as we all know, was one the key architects of democracy, the democracy we know and practice here in North America today. He said that all men are created equal and that they are endowed by their Creator with inherent and inalienable rights and that to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed. I earnestly believe that if Bill C-250 were enacted as drafted this evening, our cherished equality, as spoken of by Thomas Jefferson, could be at risk. No one can deny there are bigoted people in our society that target others based on discriminating factors. These factors are as diverse and varied as our country and society.

I should like for a moment to share some personal elements from my own life. As I have said in this chamber before, I have a daughter who was not fortunate, who has a terrible affliction, a mental illness. I have spent many hours and days in a psychiatric

acute care ward in Montreal where I have seen discrimination against an identifiable group, a member of which is my daughter. I have seen it over and over again outside the PACU and in schoolyards where people are different. They are not necessarily of a different sexual persuasion, but they are different from others and from what we call normal. Are they on the list; and, if not, why not and should they be? My reservations about Bill C-250 arise when we start carving out special protections for people with certain differences, ignoring others who also require such protections.

I truly believe this to be a slippery slope. It begs the question of criteria. What are the criteria for a group to become protected under section 318 of the Criminal Code? Presently, section 318 defines an identifiable group as any section of the public distinguished by colour, race, religion or ethnic origin. What are the criteria for a group to be identifiable and protected under this section? How does sexual orientation fit into it? What else could be added? What about severely handicapped individuals like my daughter or those other people who suffer from evident physical or mental disabilities?

Some people would argue that homosexuals should be protected because they are targets for hatred. This sadly is an unfortunate truth, but there are many other identifiable groups that are also frequent targets of hatred in this kind of terrible abuse. It is just impossible, honourable senators, in my respectful view, to identify all groups that are potential targets for hatred and to protect them accordingly, other than under the general Criminal Code and the time-tested laws we have in this country.

In my opinion, it is not the role of government today to carve out another group. This is a systemic problem that can only be alleviated as our society evolves and matures and becomes more sensitive and more tolerant about these kinds of matters.

Honourable senators, governments can only legislate legalities on matters of substance. They cannot and should not try to legislate attitudes. They cannot enforce tolerance, nor should they impose acceptance standards. I believe that what the supporters of this bill are looking for is a shift in attitudes toward gays and lesbians for political reasons, attitudes that cannot be achieved through this or any other decent legislation. Bill C-250 may well accomplish the opposite; in practice, it may actually deepen the divide between homosexual persons and the rest of our population. Categorizing homosexuality as identifiable will perpetrate all of the stereotypes and generalizations that gay and lesbian groups have fought so hard for so long to dissolve. Perhaps another bill should be introduced to amend the Criminal Code by removing entirely the concept of identifiable groups, but that is not the issue before us this evening.

Considering that what we have before us is a proposed amendment to Bill C-250 adding new groups to the list of identifiable groups set forth in section 318 of the Criminal Code, I think it is only appropriate that we as legislators take this opportunity to, at the very least, maintain a certain amount of consistency in our laws. Considering that the 1977 human rights legislation includes people with a pardoned conviction in the list of identifiable groups, is it not logical that pardoned convicts also

be protected under section 318 of the Criminal Code? By all intents and purposes, pardoned convicts are as worthy of protection as any other identifiable group. They are the victims of discrimination, targets of hatred and abuse, and are vastly misunderstood. Oftentimes, their conditions stem from factors beyond their control, such as sickness or abuse. If anyone deserves protection, it is people who have served time sometimes unjustly and are trying to integrate back into society to be productive contributors.

The John Howard Society has laid out six main principles surrounding the rights of pardoned convicts and others who have become involved with the law. Those principles are as follows: First, people have a right to live in a safe and peaceful society as well as the responsibility implied by this right to respect the law. Second, every person has intrinsic worth and the right to be treated with dignity, equity, fairness and compassion without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability when involved with the criminal justice process — this list is worth considering for section 318. Third, all people have the potential to become responsible citizens. Fourth, every person has the right and responsibility to be informed about and involved in the criminal justice process. Fifth, justice is best served through measures that resolve conflicts, repair harm and restore peaceful relations in our society. Sixth, independent, autonomous, non-government voluntary organizations have a vital role in the criminal justice process.

Honourable senators, these are just some of the reasons why I am uneasy and feel that C-250 is bad law.

MOTION IN SUBAMENDMENT

Hon. W. David Angus: If we go ahead with this bill, then I would propose a subamendment to Senator St. Germain's main amendment. I, therefore, move, seconded by Senator Stratton:

That the motion in amendment be amended by adding, before the words "ethnic origin," the words "pardoned convicts,".

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion in amendment? Do honourable senators wish to speak on the issue?

Hon. Anne C. Cools: Honourable senators, I move the adjournment of the debate.

The Hon. the Speaker *pro tempore*: It is moved by the Honourable Senator Cools, seconded by the Honourable Senator Sparrow, that the further debate on the motion be adjourned until the next sitting of the Senate.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: No.

Some Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore*: Will those in favour of the motion please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore*: Will those opposed to the motion please say "nay"?

Some Hon. Senators: Nay.

• (1750)

The Hon. the Speaker *pro tempore*: In my opinion the "nays" have it.

Senator Forrestall: That is not the way I heard it.

The Hon. the Speaker *pro tempore*: Is there an agreement on the bell?

Hon. Terry Stratton: Honourable senators, pursuant to rules 67(1) and (2), I would ask that we defer the vote until 5:30 at the next sitting of the Senate.

Senator Cools: Something is wrong here. I wanted to speak to this subamendment. The next stage —

The Hon. the Speaker *pro tempore*: There is a motion to adjourn the debate.

Hon. John Lynch-Staunton (Leader of the Opposition): If I may, the voice vote was on the adjournment of the debate and Her Honour ruled that the nays have it. That vote cannot be deferred until the next day. It must be taken right away. It is non-debatable. The vote must be taken immediately without the requirement of the bells ringing.

The Hon. the Speaker *pro tempore*: Is there agreement on the length of bell?

Some Hon. Senators: No bell.

Senator Cools: Honourable senators, it is very interesting indeed that Senator Angus has brought forth this particular initiative. I would also like to say in —

Hon. Jack Austin (Leader of the Government): Senator Cools cannot continue the debate. We must have the vote.

Senator Lynch-Staunton: I believe the honourable senator is about to speak to the amendment.

Senator Joyal: If a debate is to continue, it should continue after the vote.

Senator Robichaud: The honourable senator wanted to speak to the subamendment.

Senator Cools: I am having difficulty hearing what is being said because I am on my feet.

The Hon. the Speaker *pro tempore*: I am also having difficulty hearing.

Senator Cools: The audio system is not working very well. It is cutting in and out. Perhaps Her Honour could repeat what she said.

The Hon. the Speaker *pro tempore*: Is there agreement on the length of the bell? No bell?

Senator Lynch-Staunton: Two senators rose to call the vote on the adjournment of the debate, and it was agreed that the vote could not be deferred. Now I understand that Senator Cools has, by rising to speak to the subamendment, agreed that we should not have the vote.

Senator Cools: No, no.

Senator Lynch-Staunton: The honourable senator commenced the debate on the subamendment; she cannot have it both ways.

Senator Cools: I am a little confused. Which vote were we talking about suspending until tomorrow?

Senator Stratton: Call in the senators.

Senator Cools: So you want a standing vote.

The Hon. the Speaker *pro tempore*: We are calling in the senators now, and the length of the bell will be an hour.

Senator Rompkey: No bell.

Senator Stratton: This is on the subamendment; correct?

Senator St. Germain: This is on the adjournment of the debate.

The Hon. the Speaker *pro tempore*: There will be no bell. We will take the vote now.

Senator St. Germain: No, never. You must have a bell.

Senator Lynch-Staunton: The rule is that if there is no agreement, there is an hour's bell; however, I believe the whip said that a 15-minute bell would be appropriate. If there are senators in the reading room or their offices, it is only fair to give them time to return to the chamber to vote.

The Hon. the Speaker *pro tempore*: Is it agreed that there be a 15-minute bell?

Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore*: The vote will take place at 6:10 p.m.

Call in the senators.

• (1810)

The Hon. the Speaker *pro tempore*: Honourable senators, the question is on the motion of the Honourable Senator Cools, seconded by the Honourable Senator Sparrow, that debate on the subamendment moved by the Honourable Senator Angus be adjourned.

Motion negated on the following division:

YEAS
THE HONOURABLE SENATORS

Angus	Lynch-Staunton
Comeau	Merchant
Cools	Plamondon
Forrestall	Sparrow
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THE HONOURABLE SENATORS

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Senator Cools: Honourable senators, I rise to speak in support of the subamendment proposed by Senator Angus. I would like to begin by saying to Senator Angus and to all honourable senators that although we all work here, we know remarkably little about each other. I was most impressed and touched when Senator Angus talked about his daughter and the challenges that he and his family would have faced.

Honourable senators, I am always amazed when we rise to speak in this chamber by what we learn about other people's suffering. I believe it was Oscar Wilde who talked about certain aspects of life being a season of sorrow. Everyone has experienced some form of suffering in one way or another.

I would like to thank Senator Angus for bringing forward his concept of expanding the list of identifiable groups to include pardoned convicts. I am surprised and impressed by his thoughtfulness on this matter. It has been a long time since the Senate has examined any of these issues. When we speak to pardons we speak to the exercise of clemency in one of its myriad forms. Clemency is an aspect of the Royal Prerogative exercised by Her Majesty's representative, Her Excellency the Governor General of Canada.

It might be of interest to some senators that I know a considerable amount about this subject matter. In 1980, upon the advice of then Prime Minister Trudeau and then Solicitor General Robert Kaplan, I was appointed to the National Parole Board. I was a temporary member for Ontario because Mr. Trudeau wanted to keep me involved in politics. The National Parole Board is the administrative, quasi-judicial tribunal that looks after the business of parole applications from inmates and the processing of future parolees.

In that position, I listened and spoke to many inmates and voted on many cases. The process is quite complicated. I cannot explain it now, but essentially the Parole Board makes recommendations about parole for inmates that go before cabinet and are invariably accepted. In that way, Parole Board members exercise their intentions by voting. It is an elaborate system.

In addition to the granting of parole, which was developed under the former remission system, the authority and jurisdiction of the National Parole Board extends to recommendations on pardons. In particular, the subamendment moved by Senator Angus speaks to pardoned convicts. If they are pardoned, they are no longer convicts, but that was the language he chose to adopt and that is the language used currently in human rights legislation.

There are two kinds of pardons: the ones that fall under the Criminal Records Act and those that fall under the Royal Prerogative of Mercy emanating from Her Excellency the Governor General on the advice of cabinet. It would be interesting to go back to see the origins of that particular section, and the role in it of Edward Blake, a great Liberal of the late-19th century, particularly as a follow-up of the Louis Riel situation and that set of insurgencies. If my memory serves me correctly, Lord Dufferin took the initiative to grant certain pardons to many of the insurgents, and that angered many cabinet ministers. Thereafter, the Governor General's Royal Letters Patent insisted that the Royal Prerogative of Mercy could only be exercised on the advice of the cabinet.

• (1820)

Honourable senators, when I voted on pardon cases I would be amazed at how so many reformed inmates would cling to the system that allowed for pardons. I read many cases. Inmates sometimes spoke of a pardon as though it would make a complete difference to their lives.

Interestingly enough, I recently was speaking in Toronto, the woman who introduced me told me that she had just received a phone call from a former inmate whose particular case I had worked on. The former inmate had said her life had turned around in a phenomenal way and that she wanted to thank me for the work that I had done on her case. We all have these kinds of episodes.

What I am trying to impress upon you, honourable senators, is that the process for laying out pardon applications is quite

elaborate and systematic and it means a lot to those individuals who seek a pardon.

Despite the fact that many of these reformed or rehabilitated people had been pardoned, their records sealed and the offences vacated under the Criminal Records Act, many of these individuals complained of enormous discrimination and prejudices against them.

Honourable senators, I think it is important that we be always sensitive, particularly to that group of people in Canada that I call the working peoples of this country, who are mostly labourers. It is well known that the majority of inmates in the federal penitentiaries tend to be from the working peoples and the working classes. I was always deeply touched by the concerns that so many of these people raised about the hardships they encountered in finding jobs and so on.

I should also like to share another view, because it is very important. A part of me that says everybody should be protected from genocide and hate, but once we identify groups and once we begin to look at that list of identifiable groups, we begin to realize that many other groups of people are worthy of equal protection.

I must say to Senator Angus that I never would have thought of the group of people that he mentioned. I am pleased, indeed, to support that group because it gives us an opportunity to be sensitive to all those people out there who have had the misfortune of having an encounter with the criminal justice system.

That is the reason, honourable senators, I am opposed to Bill C-250 in the first place. I believe this particular bill will be used for political reasons, one of which will be to cleanse Canadians of moral opinions. I am of the opinion that this bill will engage many innocent Canadians in a prosecutorial process simply because some of them may happen to express views about certain homosexual sexual practices.

For example, if they wish to express moral views about certain homosexual or sexual practices, or if religious people wish to express the view that it is not only immoral but sinful, or if medical personnel wish to express the view that it is unhealthy, it would be very wrong to expose so many Canadians to vexatious and menacing prosecutions.

Honourable senators, I spent a lot of time listening to inmates and making decisions about granting parole. I visited every single penitentiary in Ontario many times to listen to inmates. I would also mention in passing, honourable senators, that, when I served on the parole board, I had a reputation for being a firm, fair and honest board member.

Senator St. Germain: Question? We still have time. Why are you calling time?

Senator Cools: I must object promptly. The Speaker usually stands to inform us that the time has expired. However, it is not yet 6:30. Is my speaking time up?

Senator Robichaud: Your 15 minutes are up.

Senator Cools: How does Senator Robichaud know that? Was he counting or is he a magician?

Senator Robichaud: I was counting.

The Hon. the Speaker *pro tempore*: You have 90 seconds, senator.

Senator Robichaud: Question!

The Hon. the Speaker *pro tempore*: Are senators ready for the question?

It was moved by the Honourable Senator Angus, seconded by the Honourable Senator Stratton:

That the motion in amendment be amended by adding before the words "ethnic origin," the words "pardoned convict,".

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: No.

Some Hon. Senators: Yes.

The Hon. the Speaker *pro tempore*: All those in favour of the motion will please say yea.

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore*: All those opposed to the motion, please say nay.

Some Hon. Senators: Nay.

The Hon. the Speaker *pro tempore*: In my opinion, the "nays" have it.

And two honourable senators having risen:

Call in the senators.

Senator Stratton: According to rule 67(1) and 67(2), I should like to defer the motion to 5:30 p.m. at the next sitting of the Senate.

The Hon. the Speaker *pro tempore*: Accordingly, the vote will be held tomorrow at 5:30 p.m.

The Senate adjourned until Wednesday, April. 21, 2004, at 1:30 p.m.

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OFFICIAL REPORT
(HANSARD)

Wednesday, April 21, 2004

—
THE HONOURABLE LUCIE PÉPIN
SPEAKER *PRO TEMPORE*



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(Daily index of proceedings appears at back of this issue).

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THE SENATE

Wednesday, April 21, 2004

The Senate met at 1:30 p.m., the Speaker *pro tempore* in the Chair.

Prayers.

SENATORS' STATEMENTS

PARKINSON'S DISEASE AWARENESS MONTH

Hon. Serge Joyal: Honourable senators, I request leave to have the following message printed in today's *Debates of the Senate* under the name of Senator Michael Pitfield. Senator Pitfield is presently undergoing treatment for Parkinson's disease and feels it is very important that the following message be delivered in the Senate on his behalf. With leave, I would request permission to read the following message on behalf of Senator Pitfield.

The Hon. the Speaker *pro tempore*: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Senator Joyal: Senator Pitfield writes:

My message is to let colleagues in the Senate and all Canadians know that the Parkinson Society of Canada has named April "Parkinson's Disease Awareness Month."

Today, nearly 100,000 Canadians, and 6.3 million people worldwide, share the experience of living with the daily debilitating effects of Parkinson's disease. Parkinson's disease is a neurodegenerative disorder that slowly robs people of their independence. It is a cruel disease that takes over entire lives — not only the persons affected by Parkinson's, but also their families. For most, their minds stay sharp while every day they witness their body's increasing limitation due to tremors, slowness and stiffness, problems with their balance, rigid muscles and pain. Some may have difficulty walking, talking or swallowing.

This disease is complex, hard to diagnose and random. It can strike anyone — women and men of all ages, ethnic backgrounds and lifestyle. While the vast majority of people with Parkinson's are over 60, 10 per cent are diagnosed before the age of 50, and others in their thirties and forties, when they are busy raising children and building careers.

Experts project that the number of Canadians with Parkinson's disease will double by 2016. We need to learn more about this progressive illness, heighten our awareness of the devastating impact it has on caregivers, families and society as a whole, and learn what we can do to make a difference in our community. Some researchers claim that the cure to Parkinson's can be found in the next decade, but increased public understanding and support are critical to meeting this goal.

Today, April 21, the Parkinson Society of Canada will host the eighth International World Parkinson Day Celebration, bringing key stakeholders from the Canadian Parkinson's community together with government officials and representatives of the International Parkinson's Alliance.

I invite the Senate to join me in welcoming these guests to Canada and wishing the Parkinson Society of Canada and its regional partners across the country success in easing the burden and finding a cure for Parkinson's disease.

On behalf of all honourable senators, I would like to add a personal note. Senator Pitfield has our support and is in our thoughts at this very moment as he fights with Parkinson's disease. He is an example to other Canadians about how important it is not to abandon hope and to continue to spend their best efforts to overcome their hardships.

Hon. Senators: Hear, hear!

THE LATE STAN DARLING

Hon. Marjory LeBreton: Honourable senators, Stan Darling, one of Canada's most colourful and dedicated parliamentarians, passed away on Easter Sunday at the age of 92. He was first elected in the general election of 1972 after a successful 30-year career in municipal politics as a councillor and a reeve in his beloved Burk's Falls, Ontario. He was re-elected in each federal election he ran in since 1972 — 1974, 1979, 1980, 1984 and 1988. He used to joke that there were more deer than Liberals in his Parry Sound—Muskoka riding.

Stan Darling fought for many causes during his 21-year parliamentary career, but the one for which he is best known is acid rain. He was the first person to push the seriousness of the acid rain problem on to the public agenda. He chaired a special parliamentary committee on acid rain and carried the fight right through to the World Summit on the Environment in Rio de Janeiro. When Prime Minister Mulroney and President George Bush signed the acid rain treaty, Stan Darling sat beaming in the front row. The Prime Minister and the President called him forth and presented him with the signing pen that they used, which he treasured to the time he died.

Stan was known for his ability to give a speech at a moment's notice. He regularly attended meetings here in Ottawa of former parliamentarians. When he was in Ottawa, he used to come to our caucus meetings and, of course, he would not miss an opportunity to make a speech. He would always say something like this: "I am really glad to be here. Really, at my age, I am glad to be anywhere, but especially on the green side of the grass." He had just moved into a retirement home and was looking forward to campaigning for the recently nominated Conservative candidate in his riding for the upcoming election. He told a visiting journalist that he would not be able to drive around the riding. He said, "I can drive; it is just that I cannot see well."

He and I had a long association in the party. One of the funniest times I ever had with Stan Darling was in 1988 or 1989 when I was in the Prime Minister's Office. There were Senate vacancies and rumours of who would fill them. There were some Ontario vacancies and his name popped up as one of the potentials. He and I used to joke about it because by that time he was two years past the Senate's mandatory retirement age.

On behalf of all honourable senators, I wish to extend to Stan Darling's family, friends and former and present day colleagues our deepest sympathy because he will be deeply missed. He was a very colourful character and a good Canadian.

Hon. Senators: Hear, hear!

• (1340)

ARCTIC WINTER GAMES 2004

Hon. Ione Christensen: Honourable senators, early last month I had the pleasure of attending the seventeenth Arctic Winter Games in Fort McMurray, Alberta. It was a wonderful time seeing young people from different communities across the circumpolar north competing together and enjoying new friendships.

The Arctic Winter Games started in 1967 as the result of an idea of Commissioners James Smith of Yukon and Stu Hodgson of the Northwest Territories. They had watched northern athletes struggling against their southern counterparts in the Canadian Winter Games and felt that an interim step was needed.

Commissioners Smith and Hodgson enticed Alaska Governor Walter Hickel to join this northern sporting and cultural event, with a goal of offering appropriate levels of competition to northern athletes who had limited access to both facilities and training opportunities.

The first games were staged in Yellowknife in 1970 and were officially opened by the Right Honourable Pierre Elliott Trudeau. The games were a huge success with 500 athletes competing from Alaska, Yukon and the Northwest Territories.

The Arctic Winter Games are held every two years and now include representation from Yukon, Alaska, northern Alberta, Northwest Territories, Nunavut, Greenland, Nunavik, the two Russian provinces of Magadan and Yamal and the Sami people of northern Europe. This year there were over 2,000 athletes.

While many of the sports played in the games are internationally recognized winter sports, the uniqueness of the games is in the historic Arctic sports and the Dene games that have been practised in northern circumpolar Aboriginal communities for many generations. The knuckle hop, the airplane, the snow snake and the one- and two-foot kick all drew crowds.

The two-foot kick, for those who are interested, is truly amazing. A little seal-skin toggle suspended on a leather thong is extended from an adjustable arm. The athlete must bring both feet up tight together with toes even and hit the toggle, returning to a controlled landing. That might not sound too difficult, but

the toggle starts at six feet and the winner this year was at seven feet ten inches. They start at the six-foot height with both feet on the ground, not from a running start. They are in bare feet. As the height is increased, they start to take a few running steps. Believe me, it is not something for amateurs.

The underlying philosophy of the games is to involve as many athletes as possible either at the games or in team trials. This year, teams Alberta, Alaska and Yukon were the winners, with team Nunavut taking home the coveted Hodgson trophy.

It was great to be there. I look forward to the next Arctic Winter Games, which are to be held in the Kenai Peninsula, Alaska, in 2006.

GREEN PARTY OF CANADA

PARTICIPATION IN ELECTION TELEVISED DEBATES

Hon. Mira Spivak: Honourable senators, the Green Party of Canada is part of an international movement that has elected members in some 30 countries and has grassroots organizations in more than 100. It embraces fiscal conservatism, progressive social programs — in fact its leader was a former Progressive Conservative — and, as its name implies, ecological values.

In Canada, the party has 5 per cent of voter support nationally and substantially more in British Columbia. In B.C., where it was founded 21 years ago, it is at 13 per cent support province-wide and fully 28 per cent of voters are in the 18 to 34 range.

Last year in the Ontario provincial election, the Green Party ran candidates in 102 of 103 ridings. Still, it was excluded from the televised leaders' debate, a decision made by TV network executives. That is the reason I am bringing this information forward today. In the last federal election, the Green Party ran 111 candidates. Today, it has 200 identified candidates and hopes to run a full slate. It is coming of age. These facts are germane to the decision those same network executives will make within a short period of time when the Prime Minister decides to take Canadians to the polls.

Some very prominent Canadians were disappointed in the Green Party's exclusion from the Ontario leaders' debate. Among them was Peter Desbarats, a former dean of journalism and a former CBC journalist who wrote in *The Globe and Mail* of the "shameful reluctance of the CRTC to cope with the issue." Others who opposed the networks' decision included Ontario Human Rights Commissioner Keith Norton, former CBC broadcaster Michael Ignatieff, Progressive Conservative strategist and organizer John Laschinger, and many more.

It is my hope that those network executives will not deny Canadians the chance to hear from Green Party leader Jim Harris in the national leaders' debate.

This is certainly an issue for the CRTC to investigate. It is important that the issues the Green Party raises should be part of the national debate, even if it appears as if they do not have a hope of becoming the government.

HUMAN RIGHTS

COMMITTEE STUDY ON 2002 BERLIN RESOLUTION OF
ORGANIZATION FOR SECURITY AND CO-OPERATION
IN EUROPE PARLIAMENTARY ASSEMBLY

Hon. Shirley Maheu: Honourable senators, as Chair of the Standing Senate Committee on Human Rights, I would like to make a statement today about our recent deliberations on the 2002 OSCE Berlin resolution, which was referred to our committee on February 4 for study pursuant to Senator Grafstein's motion.

The 2002 Berlin resolution was passed by the OSCE in recognition of the fact that incidents of anti-Jewish sentiment and violence have recently increased sharply throughout the world. The resolution asserts a clear need to recognize, address, condemn and work to eliminate anti-Semitism so as to promote human rights, democracy and security both in Europe and elsewhere.

Passed unanimously by parliamentarians, the goal of the 2002 resolution is for all OSCE parliaments to bring the resolution forward for debate in their own countries. In order to fulfil this goal in Canada, the Senate has been tasked with determining what measures and steps need to be taken to address the root causes of anti-Semitism, and to put forward our own anti-Semitism resolution following an extensive review of Canadian laws, regulations, policies and the context of anti-Semitism in Canada.

Honourable senators, on Monday of this week our committee had its first meeting on the issue and heard testimony from a variety of witnesses. Senator Grafstein explained the context of the resolution and the role that Canada has to play in the OSCE's struggle to combat anti-Semitism.

We also heard from representatives of the government, namely, the Department of Justice, Canadian Heritage and the Canadian Centre for Justice Statistics, who provided us with statistics on hate crimes and outlined Canada's anti-discrimination measures, policies and hate crimes legislation used to deal with the problem of anti-Semitism.

Finally, we heard from a number of advocacy groups. They included the Canadian Jewish Congress, the Canadian Race Relations Foundation and the League for Human Rights of B'nai Brith Canada. These groups provided us with valuable information on anti-Semitism in its broader context and its manifestations in Canada.

However, while we have only begun to hear witnesses on this matter, my colleagues and I have spoken together about the testimony that we have heard thus far and we agree that anti-Semitism is clearly a serious problem in Canada today. As noted in the B'nai Brith audit, published in the last month, the number of anti-Semitic incidents in Canada reached nearly 600 in 2003. The number has doubled since 2001.

Anti-Semitism is a serious problem that is only getting worse. The issue clearly merits deeper study. The Standing Senate

Committee on Human Rights is dedicated to inquiring further into this matter and will be hearing from more witnesses in the near future.

When our study is completed, the committee will hopefully have recommendations aimed at combating the scourge of anti-Semitism in Canada so as to serve as a model to the world on how to promote dialogue and tolerance in the face of this rising level of hatred.

[Translation]

STAR ACADEMIE

Hon. Jean Lapointe: Honourable senators, on Sunday I had the honour of participating in the *Star Académie* television show, hosted by Julie Snyder, for the grand finale of this artistic talent competition. The ratings for this broadcast were among the highest in our television history, with nearly three million viewers.

During rehearsals on Saturday and Sunday, I had the opportunity to meet 14 young participants of the show who had been competing for several weeks. I was surprised at the support and encouragement these young people gave one another. I detected no jealousy or feelings of that kind.

I also met technicians, musicians, set designers, and creators. In short, I met a tremendous and very promising team. In talking with them over two days I discovered what an asset these young people are for our culture in our country. This was one of the best shows I have ever attended or participated in. I would like to commend all those who contributed to this monumental success.

I particularly wish to thank those who thought to invite me to take part in this impressive event. Long live *Star Académie*!

[English]

ROUTINE PROCEEDINGS

THE SENATE

CRIMINAL CODE —
NOTICE OF MOTION TO DISPOSE OF BILL C-250

Hon. Lowell Murray: Honourable senators, I give notice that on Thursday, April 22, 2004, I will move:

That it be an Order of the Senate that on the first sitting day following the adoption of this motion, at 3:00 p.m., the Speaker shall interrupt any proceedings then underway; and all questions necessary to dispose of third reading of Bill C-250, An Act to amend the Criminal Code (hate propaganda) shall be put forthwith without further adjournment, debate or amendment; and that any vote to dispose of Bill C-250 shall not be deferred; and

That, if a standing vote is requested, the bells to call in the Senators be sounded for fifteen minutes, after which the Senate shall proceed to take each vote successively as required without the further ringing of the bells.

[Translation]

OFFICIAL LANGUAGES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY ON OPERATION OF OFFICIAL LANGUAGES ACT AND RELEVANT REGULATIONS, DIRECTIVES AND REPORTS

Hon. Maria Chaput: Honourable senators, I give notice that at the next sitting of the Senate I shall move:

That, notwithstanding the Order of the Senate adopted on February 19, 2004, the date for the final report by the Standing Senate Committee on Official Languages on its study of the operation of the Official Languages Act be extended from June 30, 2004, to March 31, 2005.

[English]

GUARANTEED INCOME SUPPLEMENT

NOTICE OF INQUIRY

Hon. Percy Downe: Honourable senators, pursuant to rule 57(2), I give notice:

That two days hence I will call the attention of the Senate to the Guaranteed Income Supplement program for low-income seniors.

[Translation]

OFFICIAL LANGUAGES

BILINGUAL STATUS OF CITY OF OTTAWA PRESENTATION OF PETITIONS

Hon. Marie-P. Poulin: Honourable senators, pursuant to rule 4(h) of the *Rules of the Senate*, I have the honour to table petitions signed by 24 people asking that Ottawa, the capital of Canada, be declared a bilingual city and the reflection of the country's linguistic duality.

The petitioners pray and request that Parliament consider the following:

That the Canadian Constitution provides that English and French are the two official languages of our country and have equality of status and equal rights and privileges as to their use in all institutions of the government of Canada;

That section 16 of the Constitution Act, 1867, designates the city of Ottawa as the seat of government of Canada;

That citizens have the right in the national capital to have access to the services provided by all institutions of the government of Canada in the official language of their choice, namely English or French;

That Ottawa, the capital of Canada, has a duty to reflect the linguistic duality at the heart of our collective identity and characteristic of the very nature of our country.

Therefore, your petitioners ask Parliament to affirm in the Constitution of Canada that Ottawa, the capital of Canada – the only one mentioned in the Constitution – be declared officially bilingual, under section 16 of the Constitution Acts from 1867 to 1982.

[English]

FOREIGN AFFAIRS

APPOINTMENT OF MR. BHUPINDER LIDDAR AS CONSUL GENERAL TO CHANDIGARH, INDIA PRESENTATION OF PETITION

Hon. J. Michael Forrestall: Honourable senators, pursuant to rule 4 of the *Rules of the Senate*, I have the honour to table petitions for the appointment of Mr. Bhupinder Singh Liddar as Canada's Consul General in Chandigarh signed by some 1,590 individuals. He is a champion of human rights and freedoms in Canada and deserves our attention.

JUSTICE

CRIMINAL CODE BILL C-250 PRESENTATION OF PETITION

Hon. Gerry St. Germain: Honourable senators, I rise to table a petition on behalf of 5,000 residents of Canada who wish to draw the attention of the Senate to the following:

Bill C-250 aims at incorporating "sexual orientation" into the Criminal Code of Canada (section 318 and 319) and is hereby opposed for a number of reasons particularly that the Charter rights of freedom of speech and freedom of religion will be significantly eroded once the said bill becomes law.

Sexual orientation is an extremely vague term as it could include all conceivable types of sexual gratification.

With adequate legal protections for all Canadians already in place, it is unnecessary and dangerous to pass the said bill into law as its only aim is to inject fear into the public thereby shutting out all discussion on sexual orientation not favoured by a special interest group or activist.

Therefore, honourable senators, these petitioners call upon the Senate to amend Bill C-250 to ensure that all Canadians have equal protections of their individual rights; and, failing this, to defeat Bill C-250.

QUESTION PERIOD

NATIONAL DEFENCE

AFGHANISTAN—ACQUISITION OF NEW EQUIPMENT AVAILABILITY TO TROOPS DEPLOYED ON NEXT MISSION

Hon. Michael A. Meighen: Honourable senators, last week at CFB Gagetown, the Prime Minister stated:

The \$7-billion investment we've made in the Canadian Forces since December has one aim and one aim only: to ensure that when we ask our men and women in uniform to stand in harm's way, they have the equipment they need to get the job done — safely and effectively.

In the same speech, the Prime Minister announced that, when our current military commitment to Afghanistan ends in August, Canada will be sending a further 600 members, an armoured reconnaissance squadron group, to Afghanistan.

Can the Leader of the Government in the Senate tell honourable senators how much of the \$7 billion in new equipment will be in the hands of these 600 Canadian Forces members when they are sent into harm's way in Afghanistan in August?

Hon. Jack Austin (Leader of the Government): Honourable senators, I am not in a position to provide information of that character at this moment.

Is Senator Meighen asking how much of the equipment or what value of the money to be spent will be put in the hands of the Armed Forces who will actually be in Afghanistan? Perhaps the honourable senator would clarify the question for me.

Senator Meighen: Honourable senators, I was endeavouring to ask the leader: If the amount of \$7 billion is being spent on new equipment, what new equipment will be in the hands of our forces when they deploy again to Afghanistan in September?

Senator Austin: Honourable senators, I will obtain the information for Senator Meighen.

• (1400)

UPGRADE TO FRIGATES—ACQUISITION OF NEW SUPPLY AND TRANSPORT SHIPS

Hon. Michael A. Meighen: Honourable senators, in the same speech in Gagetown, the Prime Minister also stated:

Properly equipping the Forces has been very much the focus of our government.

During the 1990s, honourable senators, that same man cut the defence budget by some 23 per cent. It sounds to me as if the Prime Minister is making a feeble attempt to redress the damage he inflicted on the military when he was the Minister of Finance.

In spite of the announced and re-announced \$7 billion in military expenditures, we also learned this week that, although

Canada's frigates need a \$2-billion mid-life improvement or upgrade, the government has no immediate plans for such improvements. To top it off, we are told by the Minister of Defence that the contract for the navy's new supply and transport ships will not be let until 2007 with delivery not beginning until 2011.

Can the leader tell us, one, whether the frigates will get their mid-life re-fit and, two, whether this government is actively investigating ways to speed up the notoriously slow military procurement process, such as in the case of a new ship, by buying at least the design off the shelf?

Hon. Jack Austin (Leader of the Government): Honourable senators, Senator Meighen has posed interesting questions. Again, I will endeavour to get accurate answers for the honourable senator.

I would add, however, that if ships should be built in Canada to enhance our capacity in shipbuilding, training and the business value that comes from procuring those ships internally, it will cause delays, because the Canadian industry has to mobilize itself to prepare for the design, the bids and the delivery of the ships. An assessment needs to be made to determine our existing capacity for transport while the domestic procurement proceeds, and whether there is a military reason to short-circuit the procurement process.

I have some familiarity with the process because I, in another cabinet life, was very much involved with the frigate program that was initiated by the Trudeau government in 1982-83. We attempted to fulfil many objectives, both military and industrial, as well as those related to human-capacity building. I believe that we fulfilled those objectives successfully in the end.

PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

POSSIBLE TERRORIST ACTIVITY— LEVEL OF SECURITY

Hon. J. Michael Forrestall: Honourable senators, I believe that, if the government had listened to us and kept that work force together, we would have no problems in having those new vessels built in Canada today.

The author of a recent al-Qaeda manual posted on an Internet site is reportedly Saif al-Adel who is a former Egyptian Special Forces lieutenant colonel and now believed to be al-Qaeda's senior military commander. It was Adel who ranked killing Canadians as a priority. Barricades have since been placed around National Defence Headquarters.

Can the Leader of the Government tell us whether there is a credible threat of any nature against any military establishment either here in Ottawa or in any other city in Canada?

Hon. Jack Austin (Leader of the Government): Honourable senators, on the latter part of Senator Forrestall's question, I have no security information that I can provide to this chamber. Senator Forrestall will recall yesterday's answers with respect to the questions of security.

The former part of the question intrigues me greatly. Senator Meighen referred to the very significant budget and expenditure control exercise during the 1990s when the opposition, of course, asked us to spend more money, if I understand his representation, on the military and on many other things. At this stage, there is a discontinuity, as I see it, in the Conservative Party's position where senators are urging us to spend more money, while the leader of the Conservative Party tells the Canadian people that taxes should be cut below United States tax levels but is not telling us in what sectors of the Canadian economy we should not spend money.

I take it that Senator Meighen and Senator Forrestall would not include defence expenditures in Mr. Harper's expenditure-cutting regime.

Senator Forrestall: Honourable senators, I remain most concerned about Canadians' access to information regarding any credible threat against our people. That comment does not only apply to Canadian Armed Forces personnel; it applies to all Canadians.

The point we were trying to make yesterday and again today is this: Canadians want to know what to expect, what to look for, so they will not worry about how they will find out if something does happen. Would we be advised about a potentially credible threat? Is there anything we can do? There is a lot of concern out there.

Senator Austin: Honourable senators, Senator Forrestall raises an extremely important question and also a very complex one. The issue of advice to Canadians on the level of threat is constantly being assessed by the government. At this time, we are a very watchful government in a number of specific sectors. We have heard comments by some, the Chief of Police in Vancouver, for example, to the effect, "If you knew what I know about terrorist threats, you would be quite frightened," but he did not say what comprised those threats. I hope that CSIS and the RCMP are aware of any threats. It is absolutely justifiable to be concerned about security in Canada and I am advised that those who are responsible for Canadian security are very active.

One of the legislative measures that they seek is contained in Bill C-7, which is now at third reading stage in this chamber. Passage of that bill will allow for, amongst other things, information-sharing with allies regarding the apprehension of threat. That will come to specific individuals as well. It will also allow for the use of a rapid response mechanism on the part of the government where an event has taken place. I am sure that Senator Forrestall supports that bill.

Senator Forrestall: The Leader of the Government touches on a most important point. None of us wants to intervene with methodology or process. Canadians are entitled to have any information which indicates that Canada is not simply a targeted country. How will that information be conveyed? Will it be by an announcement on the floor of the House or by this chamber? Will it be by a comment at a press conference by the Prime Minister, the Minister of National Defence or others, in the event the Houses are not in session? How would they know? While I am not

an alarmist, I am becoming very grateful to a benevolent God for sparing us what we have been spared thus far. Consider what happened yesterday in the southern part of Iraq late last night, and we realize that the concerns I am expressing are the same concerns expressed to me each day by e-mail and telephone. These expressions are not frivolous but are serious concerns about the need to know how Canadians would be advised.

• (1410)

Senator Austin: Honourable senators, the issues that Senator Forrestall raises are extremely important. I believe that Canadian security personnel are working diligently to understand the threat and the measures required to counter the threat. I would like to remind honourable senators that as a result of the September 11, 2001, events and others since that time, Canada has had a very active anti-terrorism plan. We have supported this plan with legislation, improved cooperation with our allies and with coordinated activities with our provinces and cities. As a result of the 2001 budget, we have invested \$7.7 billion for the five-year period 2002-07 to fight terrorism and to reinforce our public security.

As the honourable senator is aware, the Auditor General noted in her recent report that the vast majority of funds allocated in the 2001 budget have been channelled to priority areas. In the budget tabled this year, there was an additional sum of \$605 million over five years to enhance national security and to enlarge the funding in the 2001 budget. I am not saying to Senator Forrestall that spending money alone will enhance our security because it also requires the intelligent application of those funds. However, I believe that Canada is taking adequate measures and, like Senator Forrestall, I hope and pray that no terrorism occurs in Canada.

CITIZENSHIP AND IMMIGRATION

STATUS OF ADOPTION OF BIOMETRIC IDENTIFICATION CARDS

Hon. A. Raynell Andreychuk: Honourable senators, a conference was held last October by the Department of Citizenship and Immigration on the issue of biometric national ID cards, reportedly costing taxpayers over \$700,000. The conference lasted 11 hours, which works out to a cost of about \$63,000 per hour. It has now been over six months since the conference took place and there have been no definitive statements from the Martin government as to whether the issue of biometric ID cards has been abandoned or will proceed.

My question for the Leader of the Government in the Senate is: Will the government confirm that this issue of biometric ID national cards has been dropped?

Hon. Jack Austin (Leader of the Government): Honourable senators, in answering the question, I do not adopt the premise in Senator Andreychuk's representation, but I will make inquiries as to what further consideration will be given to biometric identity cards.

PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

BIOMETRIC IDENTIFICATION CARDS

Hon. A. Raynell Andreychuk: Honourable senators, by way of supplementary question, I would like confirmation from the Leader of the Government in the Senate that the Martin Liberal government has not dropped this issue. Also, I would like to know what the Liberal government, having paid \$700,000 for a conference on biometric ID cards that has produced nothing to date, will do with the program, which is estimated to cost between \$3 billion and \$4 billion? Released documents have shown that the department paid Professor Alan Dershowitz of the Harvard Law School, a noted supporter of biometric identification, a stipend of \$27,000 to speak at the conference. However, the Ontario Information and Privacy Commissioner, Ann Cavoukian, was not invited to speak, despite being a leading expert on the use of iris scans as security identifiers. Could the Leader of the Government in the Senate tell us why the department paid so much money to a speaker for one side of the issue while not inviting the noted critic on the other side of the issue to speak at the conference?

Hon. Jack Austin (Leader of the Government): Honourable senators, I will make inquiries for Senator Andreychuk in respect of this most interesting subject. The honourable senator's question raises some intriguing lacunae in logical steps. Spending a sum of money to investigate the issue of biometric identification is valuable, whether it results in demonstrating that the program is or is not desirable or technically feasible. It is my understanding that the honourable senator's major concerns are more in the area of privacy than in the area of national security, which was the subject of Senator Forrestall's question.

Senator Andreychuk: On the contrary, my major concern is national security. One way in which we could further our security is to ensure that our laws, including privacy, are involved. I make the point that the government, with great fanfare, announced that biometric national ID cards would be a measure of security and safety for Canadians. The government hosted a conference that cost \$700,000 knowing all along that the implementation of biometric ID cards would cost \$3 billion to \$4 billion. Will the government spend \$3 billion to \$4 billion on an experiment in biometric ID cards when there are many other security issues that are currently underfunded or not funded at all? Where are the government's priorities on security beyond the broad, general statements about committees and planning? Where will the emphasis be placed with respect to the money for security?

There is a measure of false hope in the public each time the government announces an initiative, whether studying biometrics or processing data on airline passengers. Such announcements lead people to believe that they are somehow safer. However, is it feasible to implement such announced initiatives? Do they comprise a program that will work?

Senator Austin: Honourable senators, I thank Senator Andreychuk for the clarification of her interest and focus. Without engaging in further exchanges, I understand the neat

point to be: What is the current assessment of this method of biometric identification? I will try to obtain that information for the honourable senator.

Senator Andreychuk: Honourable senators, the information requested is on the biometric method in respect of security issues.

FINANCE

BANK MERGERS—DELAY IN GUIDELINES

Hon. James F. Kelleher: Honourable senators, my question is for the Leader of the Government in the Senate. Yesterday, the Governor of the Bank of Canada appeared before the Standing Senate Committee on Banking, Trade and Commerce. I raised some concerns about a delay in the guidelines for bank mergers, which are due on June 30, 2004. Mr. Dodge replied, "...business, and especially financial business, does not like uncertainty. Anything that can be done to clarify situations and to increase certainty is always welcome."

• (1420)

Honourable senators, the financial community is concerned that the Minister of Finance may not meet the government's self-imposed deadline of June 30 to produce clear guidelines on bank mergers, with the result that investments and decisions that could be made are not being made. As I understand it, about \$14 billion is sitting there on hold while we await this decision.

Regardless of what those guidelines turn out to be, why is the Minister of Finance unwilling to unequivocally state that the government will meet its own deadline to release them and end the uncertainty?

Hon. Jack Austin (Leader of the Government): Honourable senators, I am not certain that the Minister of Finance is not considering meeting the government's deadline, but I will certainly look into the question. I accept from Senator Kelleher the representation that business hates uncertainty, as we all do, and at least perhaps in this sector uncertainty can be resolved sooner than in other sectors.

I would like to ask Senator Kelleher rhetorically, of course, because I cannot ask him a question, why he is not also wearing a green tie, as is the Leader of the Opposition and Senator Stratton? I note that Senator Spivak is wearing a green blouse.

Senator Stratton: It is blue.

Senator Austin: No, the shirt is blue but the tie is green. I am wondering if there is a political movement. I see Senator Gustafson is also wearing a green tie. I wonder if there is a political movement over on that side, which is being signalled by Senator Spivak?

Senator Stratton: Honourable senators, perhaps the leader should get glasses because this is a blue tie and Senator Gustafson has a grey tie on.

Senator Austin: Looks green to me.

INDIAN AFFAIRS AND NORTHERN DEVELOPMENT

RESERVATIONS
BUILDING OF PRIVATE HEALTH CLINICS

Hon. Herbert O. Sparrow: Honourable senators, my question is for the Leader of the Government in the Senate and pertains to reports in the Saskatchewan press last week and now in the national press outlining the plan for the native community in Saskatchewan to open a private MRI clinic in Saskatoon. The provincial government has no jurisdiction over Indian reservations in that province. Under the Canada Health Act, the province has no say in what happens on an Indian reserve. If a private MRI clinic is established on an Indian reserve — and I am not taking sides on this issue — does the federal government have any control over it? What is the stance of the government if the Indian band continues with its plan to build an MRI clinic on their reservation in Saskatoon, within the city limits?

This story has triggered a number of reservations to move forward with the idea. As well, there is movement from health authorities in the United States to come into Canada to offer health care. They are interested in cooperating with an Indian reserve to service the health needs of Canadians, which gives rise to the idea of private health care as against public health care.

I believe there is a question for the leader in there somewhere.

Hon. Jack Austin (Leader of the Government): Honourable senators, there is more than a question in those remarks; there is also a very interesting issue. I have only seen the news stories this morning, so I do not have a substantive response. However, I assure honourable senators that Senator Sparrow has raised a topic of real import, one on which I would hope to develop a response in the near future.

I cannot say at the moment where the Department of Indian Affairs and the Department of Health are with respect to their assessment of this matter, but I will seek information expeditiously.

Senator Sparrow: Does the federal government have jurisdiction over reservations as far as health care is concerned?

Senator Austin: Honourable senators, it is clear that the federal government has not only jurisdiction but also long-standing responsibility for the provision of health care services to Aboriginals on their reserves. This question, however, falls beyond jurisdiction. It goes to the issue of Aboriginal enterprise and how it affects the Canadian health system. I say that it is a question of real import and I will pursue it in an effort to inform the Senate as soon as possible.

TRANSPORT

AIR CANADA — FINANCIAL PROBLEMS
GOVERNMENT INVOLVEMENT

Hon. Terry Stratton: Honourable senators, my question to the Leader of the Government in the Senate is on the priorities of this government with respect to the problems of Air Canada. Earlier this month, Prime Minister Martin was quoted as saying:

I think we all want to see a resolution to this and (Transport Minister) Tony Valeri is very actively involved.

The source is the *Times Colonist* of April 6, 2004.

Around the same time as the Prime Minister made this statement, Transport Minister Tony Valeri was quoted by the *Winnipeg Free Press* as saying that he was “monitoring” the restructuring efforts, but was not actively involved. The source is the *Winnipeg Free Press* of April 7, 2004.

My question is about this apparent contradiction. Simply put, to what extent is the government involved in looking at solutions for the problems facing Air Canada?

Hon. Jack Austin (Leader of the Government): Honourable senators, the government is extremely interested in the question of Air Canada's recovery from potential bankruptcy on the basis, of course, that Air Canada provides a significant transportation service to the Canadian community. The government is extremely active in understanding the current situation, but it is not a party in any way to negotiations.

Senator Stratton: Honourable senators, it has been reported that the Canadian Auto Workers Union, which represents 7,000 customer service officers at Air Canada, wants the federal government to drop its foreign ownership restrictions on airlines, a move that the union believes will draw more U.S. investors to the insolvent carrier. The source of this report is the *Hamilton Spectator* of April 16, 2004.

As well, in a recent speech to the Metropolitan Halifax Chamber of Commerce, Transport Minister Tony Valeri mused about liberalizing Canada's air transport sector so that foreign carriers would be allowed to service Canadian airports and vice versa. The source is the *Chronicle-Herald* of April 16, 2004.

Could the Leader of the Government provide us with further insight into how seriously the government is considering these two options with respect to the air transportation sector and, if so, why it is not moving with any sense of urgency on these issues?

Senator Austin: Honourable senators, Senator Stratton has a business background. I raise that point because I know he understands that the negotiations going on between potential investors — the airlines, its unions and other stakeholders, such as air terminals — are of incredible complexity. There are deeply held interests. Changing long-standing relationships creates a cultural shock. As well, adherence to new investment standards creates pressures on existing financial arrangements. Again, these matters are enormously complex.

Given all that is taking place, which I know Senator Stratton well understands in business transactions of this kind, the role of the government is one of good offices.

• (1430)

It is one of watching these negotiations and understanding where, if at any point, it can be of assistance within the Canadian National Transportation Policy. All sorts of people, including some in the House of Commons and here, fly kites. Sometimes, there are interesting results.

Senator Stratton: I appreciate the honourable senator's comments.

The one question Canadians would ask if they were here concerns the "what-if" scenario. What would the honourable senator tell Canadians? Is he planning for a what-if scenario in the case of the failure of Air Canada? Can the Leader of the Government in the Senate offer Canadians no assurance that some action would be taken? Is he prepared for the company to fail?

Think of all the Aeroplan points accumulated by families who want to take summer vacations this year. Their plans are being put in jeopardy because of this fundamental question.

Senator Austin: The pivotal point is to allow the the stakeholders the opportunity to resolve the problems. Premature statements by the Government of Canada would have an impact on the way in which those negotiations might be conducted. It is not appropriate, in the view of the government, at this stage, to say anything publicly along the lines of the honourable senator's statement.

I can assure members of this chamber and the public that the Canadian government is monitoring the situation with the cooperation of all parties.

ANSWER TO ORDER PAPER QUESTION TABLED

ANTI-TERRORISM ACT

Hon. Bill Rompkey (Deputy Leader of the Government) tabled the answer to Question No. 1 on the Order Paper—by Senator Lynch-Staunton.

ORDERS OF THE DAY

PUBLIC SAFETY BILL 2002

THIRD READING – DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Day, seconded by the Honourable Senator Léger, for the third reading of Bill C-7, to amend certain Acts of Canada, and to enact measures for implementing the Biological and Toxin Weapons Convention, in order to enhance public safety.

Hon. Terry Stratton: Honourable senators, Senator Spivak will speak first with respect to this bill. I give notice that Senator Andreychuk is the first speaker on Bill C-7 for the official opposition. Therefore, we reserve Senator Andreychuk's right, pursuant to rule 37(3), to speak for 45 minutes at a later date. However, we have agreed to hear from Senator Spivak and any other senator who wishes to speak to the bill today.

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, we on this side agree.

Hon. Mira Spivak: Honourable senators, I share the opinion of a great many Canadians who believe that we should not pass Bill C-7 in its present form.

The Standing Senate Committee on Transport and Communications heard from some who believe that the bill should not be passed without amendment — notably Canada's Privacy Commissioner and representatives of the Canadian Bar Association and Air Canada — that we will face new and perhaps unmanageable requirements if we adopt this bill as it stands.

The committee also received briefs and heard testimony from many others who strongly urged us to amend this bill, including representatives of the Canadian Association of University Teachers, the British Columbia Civil Liberties Association and the International Civil Liberties Monitoring Group, which represents 29 organizations. Its supporters include Gordon Fairweather, Canada's first Human Rights Commissioner, the Honourable Flora Macdonald, a former Minister of Foreign Affairs, and our former colleague the Very Reverend, the Honourable Lois Wilson.

Significantly, the committee did not want to hear from legal and constitutional experts, despite the repeated requests of some committee members and the repeated urgings in this chamber and elsewhere that the legal and constitutional implications of this bill are so critical that it should have properly been referred to our Standing Senate Committee on Legal and Constitutional Affairs.

No reasonable person suggests that the recent threat of terrorism does not demand a new response from government. Our intelligence gathering agencies, border control personnel, law enforcement officials and government officials do need new tools to try to prevent acts of terrorism and to respond quickly in the event of such acts. There is no dispute on that score.

The question is whether Parliament gives them the right set of finely honed tools or whether it gives them a sledgehammer with all of its unforeseen consequences. This bill is a sledgehammer borne out of the North American impulse to prevent or deal with any recurrence of 9/11. The bill has gone through four iterations and some modifications since it was first introduced as Bill C-42 just two months after the 9/11 terrorist attacks. Its essential elements and its sledgehammer approach, however, have remained.

I would like to quote from a *Globe and Mail* editorial of November 24, 2001. The headline reads, "The Public Safety Act seeks too much power."

The government refers to its proposed Public Safety Act as legislation, but it might as easily call it a blank cheque. Whenever their inspiration flags, the authors leave it to individual ministers to do whatever they feel is necessary whenever they feel they must...a public concerned about governmental overkill must ask: How far is too far?

The writer focused on two elements of this power grab that still remain in the bill. The first is the expansion of interim orders that give ministers, and in some cases their deputies, authority to do a host of things and make those orders last for days or weeks without cabinet oversight.

The second element was the expansion of the definition of an emergency under the National Defence Act to include armed conflict. The writer speculated that protesters of government policy could become targets under this new definition. Perhaps that is an overextension.

As lawmakers, we can have a working assumption that power will not be grossly abused. At the same time, Parliament should be frugal in its granting of powers and avoid giving them where they are not clearly needed.

In that respect, the interim order provisions of this bill are troubling. Among other things under this bill, an individual minister could shut down Canadian airspace and airports, decree any part of the country subject to an environmental emergency and dictate government's response to it, authorize health inspectors to seize any food or drug, open and close bridges, seize pesticides, halt shipping — honourable senators get the picture I am sure. The list is so long that it takes 31 pages to detail them. Some that are included are downright silly. An interim order could be made, for example, "respecting training courses and examinations for pleasure craft operators" or "respecting the design, construction or manufacture of pleasure craft." What does that have to do with fighting terrorism?

Instead of honing the tools it needs for a quick response to terrorist acts, the government wants us to agree that entire sections of the act be subject, *holus-bolus* to interim orders. Not incidentally, many of those sections would permit orders generally for carrying out the purposes and provisions of their respective acts.

The 14-day lag before the Governor in Council must approve any of these orders and the 15-day lag for parliamentary oversight are other troubling aspects. As the International Civil Liberties Monitoring Group suggests, they weaken our democratic institutions. A summary comparing the time limits to those found in the Emergencies Act was given to committee members. It suggested, among other things, that from the time an emergency occurred to the tabling of orders under the Emergencies Act, more than 15 days will have passed. What is the real reason?

• (1440)

Under questioning before the committee, a Transport Canada director general gave this response:

We had to have a period of time before we had to go to the Governor in Council with all the argumentation written down and all the proper formats, et cetera. Therefore, 14 days was the chosen period. Fifteen days to Parliament was the next period chosen.

In other words, it is the paperwork. Are the fundamentals of responsible government — parliamentary supremacy, government's accountability to Parliament and decision making by the cabinet collective — not worth more than that?

I respectfully suggest that, if the demands are too onerous in a crisis situation, then an alternate process for informing both the Governor in Council and Parliament is the solution. Better to have oral briefings, interim arguments and interim papers in support of interim orders than to toss aside the fundamentals of our democracy.

Much has been said in recent months about the democratic deficit. In this bill, the government is making an implicit admission that, in its view, not only Parliament, but also the Governor in Council is incapable of addressing an act of terrorism for up to 14 days. What greater deficit could a democracy have?

The briefing paper and testimony also noted that interim orders would be referred within two days to the Standing Joint Committee of the Senate and the House of Commons for the Scrutiny of Regulations. Senators familiar with that committee will know that its oversight capacity is limited. Traditionally, it has reviewed regulations to determine only whether they are *intra vires* of the enabling legislation, in contravention of the Canadian Charter of Rights and Freedoms or the Canadian Bill of Rights, or imposing a charge or tax without express authority. The committee has long maintained that it cannot delve into the merits of a regulation or the policy it implements for the simple reason that its members are not experts in all aspects of transportation, national defence, foreign affairs, health, environment or other matters.

When the Deputy Prime Minister appeared before the committee, she said the government intends to create a new joint parliamentary committee whose members will be sworn in as Privy Councillors, have access to privileged information and exercise oversight on this bill and other bills related to national security. If the Governor in Council and Parliament as a whole is to be denied oversight of interim orders for two weeks, why not refer them within two days to this committee?

The privacy problems in this bill were clearly presented to the committee by Privacy Commissioner Jennifer Stoddart, who, not incidentally, said that seven provincial information and privacy commissioners share her concerns. She spoke of the bill's excessive reach that goes beyond fighting terrorism. She spoke of the danger in making private sector airlines and travel agents extended arms of the state by requiring them to provide passenger information. She spoke of its violation of the basic fair information principle that information collected for one purpose should not be used for another — and of the principle of consent in gathering personal information, which this bill would ignore. Ms. Stoddart proposed reasonable amendments, none of which have so far been included.

In response to her concerns that the warrant provisions of the bill go beyond fighting terrorism, the Deputy Prime Minister agreed that they do. Referring to data matching by the RCMP with the information airlines must provide, she said:

...if a name came up of a person being on a plane and it was apparent that there was a warrant for that individual for murder, rape, child molestation or child pornography, it would be very hard to justify to Canadians that you could not share that information with local law enforcement authorities where that person got off the plane.

Draft regulations for the so-called serious crimes of which people may be suspected and detained also include mischief, assault, a wide range of firearms offences, unauthorized computer use and many more.

Witnesses repeatedly warned committee members about unintended consequences of this bill, from negatively impacting donations to charities to making last-minute flight switches virtually impossible for business travellers and parliamentarians — things that could touch home for many of us.

Most critical, however, was lack of probing on legal and constitutional issues surrounding this bill. Suffice to say that the B.C. Civil Liberties Association identified several areas where Charter violations are likely, including provisions that sidestep the normal warrant requirements for search and seizure. They resemble the writs of assistance that Parliament eliminated before the Supreme Court required it to do so.

I would close with a quote from the 2003 Sir William Dale Memorial Lecture in Chancellor's Hall at the University of London. The speaker, the Right Honourable The Lord Hope of Craighead, said:

The question is whether the second chamber can add value to the process of legislative scrutiny. That is the starting point for an examination of its constitutional legitimacy and its utility.

Can this second chamber add value? Can it hear the many compelling reasons why this bill needs further refinement, further honing and further crafting of the sledgehammer into a better tool?

I sincerely hope so. I hope the Senate will do its work.

On motion of Senator Andreychuk, debate adjourned.

[Translation]

CRIMINAL CODE

BILL TO AMEND—THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Harb, seconded by the Honourable Senator Adams, for the third reading of Bill C-14, An Act to amend the Criminal Code and other Acts.

[Senator Spivak]

Hon. Pierre Claude Nolin: Honourable senators, I think it appropriate to tell you about the consideration by the Standing Senate Committee on Legal and Constitutional Affairs of Bill C-14. First, I want to say that senators on all sides agree with the proposed legislative measure.

Now I will move on to what this legislation proposes. This omnibus legislation seeks to amend the Criminal Code of Canada in a number of ways. I will go over the various amendments proposed in this bill.

First, the bill seeks to increase the penalties for any person placing traps or devices likely to cause death or bodily harm to a person; such penalties have been significantly increased.

Second, the bill makes it an offence to use such traps or devices for the purpose of protecting a place used to commit other offences. I presume that, like me, you are all picturing cannabis cultivation within Canada. The maximum penalty for this new offence will be ten years.

This legislation seeks to create an exemption to the offence of intercepting private communications in order to protect government and private computer systems from cyber attacks.

The bill would also amend the criminal procedure dealing with the provision of information on oath in relation to weapons, in order to bring it in line with the provisions of the Charter of Rights and Freedoms. A number of Canadian court rulings have prompted various government authorities to re-examine these provisions, and the purpose of the bill is to amend the Criminal Code accordingly.

As well, the bill clarifies application of the defence relating to the use of force on board an aircraft in order to ensure the safety of Canadians travelling within Canada or outside the country.

The bill also improves the Criminal Code provisions relating to compensating victims of crime. Unfortunately, there is too often a tendency to neglect the consequences of criminal acts on the victims. The bill addresses this. Finally, it includes a series of technical amendments to a number of laws corollary to the implementation of Bill C-14.

• (1450)

Honourable senators, I would like to draw to your attention two particular areas addressed by this bill. First of all, the matter of traps set for criminal purposes. I repeat, we support the changes called for by the Canadian Professional Police Association and the Canadian division of the International Association of Firefighters. These effective measures are consistent with our responsibility in this area.

The individuals responsible for enforcing the laws we enact need not have to ask whether these are legitimate and appropriate. It is our responsibility to ensure that they have sufficient protection while enforcing the law.

Those involved in certain criminal activities such as growing cannabis in concealed grow ops make sure they are protected from police intrusion. Unfortunately, the police are not protected against such traps. It is our responsibility to see that they have protection.

We will be called upon to examine, in another bill, the appropriateness of maintaining the prohibition of cannabis.

Bill C-10 will go through certain stages in the other place during May. When this bill arrives before us, we will have to study the question of prohibition. Today, the law prohibits the sale of cannabis. That is primarily what the matter of traps and other devices is about.

This is not the time to ask whether or not such a prohibition should be maintained. We must ask whether we can better protect the police officers and fire fighters whose jobs take them into such risky places. That is why we should accept the proposed measures.

The second point I am worried about, and which I raised during my speech at second reading, is the interception of private communications. We support this principle with some reservations. We must evaluate the public interest in protecting public or private informatics networks, in the light of Canadians' rights to privacy.

Senator Joyal and I have discussed these concerns. In committee, we looked at the implementation of this bill. We questioned various administrative officials on the measures they intended to take to maintain the often delicate balance between these two objectives.

We should thank Treasury Board Secretariat for providing us with the guidelines for the implementation of Bill C-14. These guidelines were written with particular reference to the provisions of the Criminal Code regarding the interception of private communications. They took into account Bill C-14, the Privacy Act, the Canadian Charter of Rights and Freedoms, and government policy on security.

It is not always easy to try to maintain this balance. Still, we arrived at the conclusion that the appropriate measures would be put in place in order to ensure that both these objectives — too often at odds with each other — could be met.

These guidelines state that the powers granted under Bill C-14 should be implemented according to the proper risk management procedures. Permanent threat and risk assessment mechanisms must be used to determine if it is necessary to supersede basic federal safety measures currently in place to prevent cyber attacks. Among other things, these guidelines state that the interception of private communications must be restricted only to what is necessary for legitimate threat management. They also set out the measures essential for retaining or destroying intercepted data and providing notification to users of computer networks.

I am talking about Bill C-14, and I am thinking about Bill C-7, which was just debated. There are similar concerns about both bills. We are right to wonder if, on the one hand, the federal

government is in a position to implement measures to protect and maintain this delicate balance. Based on Bill C-14, it is extremely difficult to ensure that Bill C-7 will receive identical treatment. Those charged with the future consideration of Bill C-7 will have to tell us. Among other things, employees responsible for implementing these guidelines will be required to attend training sessions. If they have not started already, these training sessions will begin in a matter of days.

Although there are still some questions about the definition of what information must be intercepted, we must, as I said at second reading, support the provisions proposed in Bill C-14. We took the precaution of consulting the Office of the Privacy Commissioner on this. Even though we did not gain its official endorsement of the draft guidelines, it did indicate satisfaction with the marked improvements that have been made recently to certain aspects of this administrative policy.

Honourable senators, we can support this bill with relative peace of mind. As I said earlier, this is not the time to ask ourselves whether or not we did the right thing when we passed the laws on prohibition. That we will do when examining Bill C-10, and I will be one of those who feel we did not.

For the moment, what we need to do is protect our firefighters and police officers. That is the problem and that is what we are concerned about. This must be done properly and this is why we must support Bill C-14.

[English]

Hon. Mobina S. B. Jaffer: Honourable senators, I rise to speak to Bill C-14, to amend the Criminal Code and other acts, which will make a number of technical and some more substantive changes to the Criminal Code and several other acts.

The nature of this bill's provisions range from uncontroversial amendments to absolutely necessary ones, such as the new sentencing rules that will be introduced respecting the use of deadly traps, as Senator Nolin has explained, to protect places that are utilized to commit other offences, such as growing marijuana.

• (1500)

However, certain amendments proposed in this bill have a broader implication than might initially be apparent. I will focus on some of these implications so that all honourable senators will be aware of them. I make it clear that it is not my intention to speak against any of these amendments, but only to point out how they might fit into the broader picture.

While this bill was being reviewed by the Standing Senate Committee on Legal and Constitutional Affairs, we had the opportunity to hear from the Honourable Irwin Cotler, Minister of Justice and Attorney General of Canada. During those hearings, the minister was questioned about the changes that Bill C-14 will make to the Canada Evidence Act.

Specifically, Bill C-14 will repeal section 37.21 of the Canada Evidence Act, which honourable senators will recall was first introduced in this place in October of 2001 as part of what was then known as Bill C-36, the Anti-terrorism Act. It was part of a section of that law that dealt with the power of ministers of the Crown or an official to object to the disclosure of information in courts that had the power to compel information on the grounds of a specified public interest. The provision in question, section 37.21, made it mandatory for a judge to conduct hearings to determine if such an objection was warranted, or the appeal of such a decision, in private. The amendment proposed in Bill C-14 will remove this requirement, putting discretion as to whether or not secret hearings are warranted back in the hands of the judges.

Honourable senators, while this may not seem to be the most ground-shaking amendment, we can see how it is a part of a broader picture. This amendment was originally introduced as part of the anti-terrorist strategy, and it shows how, in our desire to ensure security and secrecy when dealing with issues of national security, we have at times gone to lengths beyond what is necessary.

During our committee hearings, the Minister of Justice had the following to say about this amendment:

This is basically a corrective measure with regard to something that we inadvertently overreached in the enactment of Bill C-36, by way of almost anticipating the review that is taking place, both with regard to section 4 of the Security of Information Act, formerly the Official Secrets Act, and the overall review in the fall. This is kind of a corrective along the way.

Honourable senators, this not only shows the importance of the three-year review of the Anti-terrorism Act, but it also shows us that this review has, in effect, already begun.

As the practical implications of this law become clearer, we realize that there are some areas in which we have struck an inappropriate balance. In this case, we had infringed on the discretion of judges. While security is, of course, a serious concern, the greater concern is that we may have also infringed on the rights and liberties of Canadians in general, and specifically that we may have been targeting minority groups.

Honourable senators, I have told you before that I have witnessed the chilling effect that powers granted in the Anti-terrorism Act have had in communities across Canada. The amendment contained in clause 18 of Bill C-14 only further demonstrates that the time has come to review this law.

Even more, it demonstrates that we should not be too quick to take new action before the review takes place. If this review is to be an instrumental tool in reviewing Canada's anti-terrorism strategy to date, surely we can wait until it is completed and we have a more complete picture of the risks, both to security and to civil liberties, before we proceed in adding more provisions that run the risk of tipping the delicate balance between the two.

[Translation]

Senator Nolin: Honourable senators, Senator Plamondon had indicated that she wished to speak. It might therefore be appropriate to move the adjournment in her name.

The Hon. the Speaker *pro tempore*: I did inquire as to whether she wanted to speak on third reading and she indicated that she did not.

[English]

Some Hon. Senators: Question!

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Senator Nolin: On division.

Motion agreed to, and bill read third time and passed, on division.

FOREIGN AFFAIRS

COMMITTEE AUTHORIZED TO HOLD JOINT SESSION WITH HOUSE OF COMMONS STANDING COMMITTEE ON FOREIGN AFFAIRS AND INTERNATIONAL TRADE TO MEET WITH DALAI LAMA

Leave having been given to proceed to Order No. 74:

Resuming debate on the motion of the Honourable Senator Di Nino, seconded by the Honourable Senator Keon:

That the Standing Senate Committee on Foreign Affairs be authorized to join the Standing Committee on Foreign Affairs and International Trade of the House of Commons for a joint meeting in order to meet with His Holiness the Dalai Lama and his delegation; and

That the Committee be authorized to meet at 3:30 p.m. on Thursday, April 22, 2004, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto. —(Honourable Senator Corbin).

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

STUDY ON QUOTA ALLOCATIONS AND BENEFITS TO NUNAVUT AND NUNAVIK FISHERMEN

REPORT OF FISHERIES AND OCEANS COMMITTEE DEBATE ADJOURNED

The Senate proceeded to consideration of the fourth report of the Standing Senate Committee on Fisheries and Oceans entitled: *Nunavut Fisheries: Quota Allocations and Benefits*, tabled in the Senate on April 1, 2004.—(Honourable Senator Comeau).

Hon. Gerald J. Comeau: Honourable senators, I rise to make a few remarks concerning the fourth report of the Standing Senate Committee on Fisheries and Oceans presented in this chamber on April 1, 2004.

In the fall of 2003, your committee undertook a study of matters relating to quota allocations and benefits to northern fishers. Selected witnesses from Nunavut and Nunavik were invited to appear before the committee between mid-September and early November, 2003, and February of 2004. A call for submissions was sent out in September, inviting individuals and groups to submit written briefs. Our hearings were televised, and live audio recordings of our public hearings were made available on the World Wide Web. The committee heard from a cross-section of stakeholders and potential stakeholders, including Inuit organizations, government officials and business interests.

• (1510)

Entitled, "Nunavut Fisheries: Quota Allocations and Benefits," the report focuses mainly on turbot, also commonly known as Greenland halibut or northern turbot. At the outset, it is important to provide some background.

In Canada's North, the programs of the Department of Fisheries and Oceans, or DFO, are conducted mainly in conjunction with co-management boards established by comprehensive land claims settlements. With respect to Nunavut, many of the provisions of the Nunavut Lands Claims Agreement relate directly to marine matters. This should come as no surprise. The people of Nunavut are a maritime people who are dependant on the sea and its resources. Indeed, all but one of Nunavut's 26 communities are located along its extensive coastline. Nunavut, Canada's newest political jurisdiction, has a population of approximately 29,000 people, of whom 85 per cent are Inuit.

Like their Nunavut neighbours, Nunavik Inuit in northern Quebec also have an important socio-economic stake in the marine resources of the region. Approximately 10,000 Nunavik Inuit live in 15 communities situated along the coast of Hudson Bay, Hudson Strait, Ungava Bay and the Quebec Labrador Peninsula north of the 55th parallel.

In the North, fish has had a significant role in the subsistence diets of Inuit. With respect to commercial fishing, the territorial Government of Nunavut has targeted commercial fisheries as a means of stimulating economic development. The fishery is very much a priority because it represents one of the limited ways of providing economic opportunities.

Nunavut faces a number of economic and social challenges. Demographically, the most startling feature of its population is its youth. With a medium age of 22.1 years, Nunavut's population is the youngest in Canada. This sets the stage for an increasing need to create jobs in the region where the largest employer is the government, and where unemployment and the cost of living are

significantly higher than the rest of the country. In 1999, the overall unemployment rate in Nunavut was over 20 per cent as compared with 8.5 per cent for Canada overall. For Inuit, the rate was 28 per cent as compared to under 3 per cent for non-Inuit. In simple terms, in Nunavut, the fishery means future jobs, particularly for Inuit.

In our meetings, witnesses from Nunavut all agreed that employment for Inuit was the main goal in developing the turbot fishery. There was also agreement that the fisheries should or would in future be owned and operated by Inuit. At present, Nunavut's involvement in commercial fishing remains quite limited. Nunavummiut do not own their own fishing vessels, so that boats from elsewhere are offered the opportunity to fish in offshore areas in exchange for seasonal employment for Inuit and royalties. Royalty income, the proceeds of selling fish in the water, is much less than what could be obtained if the catch were directly harvested, processed and marketed.

Presently, a \$98.5-million commercial fishery takes place in Nunavut's adjacent waters. However, it is one that generates only \$9 million in direct economic benefits for Nunavut when both royalties and wages are combined. The remaining benefits go south or elsewhere. However, if Nunavut were to develop its own harvesting capacity and obtain a percentage share of its adjacent resources comparable to that which is the case in the Atlantic provinces, around 80 or 90 per cent, we heard that the values of landings in Nunavut could be as high as \$80 to \$90 million, not including the potential economic benefits of value-added shore-based processing. Put differently, Nunavut currently realizes only 10 per cent of the potential benefits of commercial fishing.

A number of developments have taken place since the committee last visited the territory in the year 2000. For instance, in April 2002, the Independent Panel on Access Criteria reported to the Minister of Fisheries and Oceans. A five-year management plan for turbot expired in 2002, and a three-year plan began in January 2003. More significant has been a rapidly expanding exploratory turbot fishery in the region known as NAFO division 0A that is off the north-east coast of Baffin Island.

While the global fisheries picture is bleak, the exploratory turbot fishery in 0A appears to be an exception. In 0A, we heard that nowhere else in Canada is the potential for emerging fisheries development greater.

Since 2001, the Nunavut Wildlife Management Board, the territory's main instrument of wildlife management, has allocated the entire quota division of 0A turbot to one organization, the Baffin Fisheries Coalition, or BFC, a federally incorporated not-for-profit corporation consisting of 11 Inuit organizations. In deliberations, we learned that the BFC was planning to purchase, at considerable cost, a large factory freezer trawler to further develop Inuit fishers' experience and expertise by training and employing them as crew. In contrast, we heard that Inuit typically do not wish to be away from home and family for extended periods of time. On occasion, they must spend up to two months on these factory ships.

The testimony of community representatives from hunters and trappers organizations suggested that communities were planning to develop the fishery resource off their shores quite independently of the BFC. Their clear preference was for small-boat fishing, which differs considerably from the BFC strategy of acquiring factory freezer trawlers to create employment. What committee members found perplexing was that the community representatives who expressed these views, were in fact coalition members of the BFC, the very organization that was supposed to be acting on their behalf.

In its report, the committee recommended that the DFO continue its policy of assigning 100 per cent of the 0A turbot allocation to Nunavut. However, we strongly suggested that the Nunavut Wildlife Management Board, in planning the future of the Nunavut fishing industry, consider the benefits of small-boat community fisheries. In waters south of division 0A, that is, in division 0B, the situation is quite different. There the fishery has a longer history and is considered to be oversubscribed. In 1990, the DFO instituted the Northern Turbot Developmental Program that allowed Canadian offshore companies to charter foreign vessels to fish. The federal program was designed to assist the Atlantic fishing industry in adjusting to the loss of the northern cod fishery.

Currently in 0B, there is a Nunavut quota where the fish is sold in the water in exchange for royalties and the hiring of Inuit crews. This is the only means available for Inuit communities to generate economic income.

The DFO also allocates a portion of the total allowable catch in the form of company quotas to southern interests, none of which is owned by Nunavut. In addition, there is a competition fishery in which none of Nunavut residents is permitted to fish.

For 0B, the recurring theme in our meetings was adjacency. Generally this is understood to mean that priority of access should be given to those who are closest to the resource. In this respect, the committee's 2004 report is a follow-up to the committee's February 2002 study entitled "Selected Themes on Canada's Freshwater and Northern Fisheries." That study reported on the territory's disproportionately small share of the turbot in the Davis Strait fishery.

In our 2004 report, the current one, we concluded that Nunavut's involvement in the 0B turbot fishery was unacceptably limited. We therefore recommended that the DFO continue its policy that no new access to turbot is given to non-Nunavut or southern interests until Nunavut has achieved a major share of the fishery. Committee members also recommended that DFO make funding available to Nunavut for the purchase of one or more company quotas and/or groundfish licences held by southern fishing interests.

While the committee felt that Nunavut should have more 0B turbot, more fish will not automatically result in an economically sustainable fishery. Other very important matters need to be addressed. For instance, one message that emerged loud and clear in all our discussions was the need for more

exploratory research on marine resources adjacent to Nunavut. Participants in our inquiry were of the view that the DFO had conducted far too few stock assessments in northern waters and stressed the importance of having sound information base to avoid the risk of overharvesting.

Scientific study activity was also considered essential to identify and develop new and emerging fisheries. Witnesses from the North stated that they hoped to develop new and emerging fisheries — for example, clams, scallops and sea urchins — in order to generate the much-needed economic benefits to the local economies and, as noted earlier, to create jobs for young people in the North.

• (1520)

Infrastructure was another major and recurring theme in our hearings. Without fisheries-related infrastructure, the royalty feature of Nunavut's fishery — selling "fish in the water" — will continue to be the main method of conducting the fishery. The resource will therefore generate fewer economic benefits than if it were directly harvested and processed.

Broadly speaking, witnesses expressed their deep frustration about what they viewed as a lack of federal commitment to the region. Their dissatisfaction was particularly evident on the subject of infrastructure. We heard that very little had been done over the years to address what was called Nunavut's infrastructure deficit.

In their report, committee members viewed greater federal support and a more sizeable federal commitment as a form of nation-building. Sooner or later, the federal government will have to commit itself financially to the North. A delay in this investment will prove costlier in the long run in terms of lost economic opportunities.

To make a very long story short, the committee called on the Government of Canada to act on the memorandum of understanding on emerging fisheries it signed with the Government of Nunavut in August 2002. More specifically, the committee called on the federal government to provide funding to a first-ever federal-territorial cost-shared fisheries development agreement, an agreement that should also include a multi-year fisheries research program.

In addition, the committee called for at least two harbour developments in Nunavut. Can you imagine not being able to land the fish that you collect right off your shores because you have no wharf facilities? I think these recommendations are abundantly reasonable.

In closing, honourable senators, fisheries management in the North presents many unique challenges. Our hope is that the committee's recommendations will make a difference and will help ensure that the fishery develops in a way that is compatible with northern cultural values. On behalf of committee members, I thank all those who submitted briefs and those who so generously took their time to meet with us in Ottawa.

MOTION TO ADOPT REPORT OF FISHERIES
AND OCEANS COMMITTEE
AND REQUEST GOVERNMENT RESPONSE

Hon. Gerald J. Comeau: Before I sit down, honourable senators, I move:

That the fourth report of the Standing Senate Committee on Fisheries and Oceans tabled in the Senate on April 1, 2004, be adopted and that, pursuant to rule 131(2), the Senate request a complete and detailed response from the government with the Minister of Fisheries and Oceans being identified as Minister responsible for responding to the report.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I want to say a few words. I know that Senator Watt has an interest in this matter as well, but my interest was attracted by the number of issues that are similar to those in Labrador. The committee might as well have been conducting the study there. That is not unusual because we share the same sea with the people of Nunavut, who are our northern neighbours. Indeed, the Inuit share with each other, not simply in the circumpolar conference but in other ways, too. They share co-ops, for example.

I think it is worth underlining the point that co-ops are the only mechanisms that have worked on that coast. There is no capital. That underlines the point Senator Comeau made about infrastructure. In the South, capital is available to build infrastructure. Companies build infrastructure. They build plants. Governments build some wharves and companies build wharves, too. In the North, that capital is not available for infrastructure. The government has a fiduciary responsibility there and has some additional responsibility, it seems to me, to provide that infrastructure in the absence of the usual means.

I support the issue on infrastructure. I also support the issue on royalties. In the late 1970s, when Roméo LeBlanc was the Minister of Fisheries, we allocated deep-sea shrimp licences to that portion of the Labrador coast, some of them going right up into Baffin. There were 13 licences originally out of roughly 1,000 tons each. The same thing has happened. We are collecting royalties and getting some jobs on the boats, but the value-added component is not there. We do not own the boats. There is no processing on shore. There is a minimum return. The intentions were good in that the quotas were allocated, but the return is minimal simply because there is no value-added. Factory-freezer trawlers are either rented or there is a joint venture. They process the product at sea and sell it in Europe. It is great to have that European connection, but we do not have the jobs on shore. Only a minimum of the money is coming to the people who are adjacent to the resource, and that principle I support as well.

I wanted to quickly make reference to the small-boat fisheries and the dichotomy that seems to have occurred in the testimony the committee heard between the organization and some of the individuals who made up the organization.

I sympathize with the idea that the Inuit people perhaps do not want to go to sea using advanced technology for extended periods of time. Indeed, a small-boat fishery perhaps should be contemplated. By "small boat" we do not simply mean punts and skiffs. We can talk about longliners of 45 feet or even 60 feet. I know Inuit who have gone to sea and have captained those ships. They can go a fair distance from land. A former student of mine, Martin Sillitt from Nain, went to the Marine College in St. John's and got his deep-sea licence and became the captain of a ship roughly around that size. He was very successful.

In terms of the catching capability, I support the idea of examining the benefits of small boats. We do not really mean small boats but rather intermediate boats.

I congratulate the committee for the work it has done. This area of Canada too often receives too little attention. It is the marine resource that is important. That is where the future benefits will be. The seal, for example, is the mainstay of the Inuit culture. Inuit have been harvesting seals for thousands of years, not simply to provide sustenance but to provide comfort and, more recently, to provide dollars.

Senator Graham was recently overseas. I had a call from him on the weekend telling me about the protests in Britain regarding the seal hunt. That is nothing new to us. We have experienced it for a decade; it is still there. People do not understand that the Inuit are a marine people, a coastal people, who exist on a marine resource. The mainstay of that marine resource has been the seal, but there are other species. They have been involved in whaling over the years, and there is a possibility of developing that marine resource for their benefit.

I congratulate the committee for bringing forward this report and I certainly support the motion.

Hon. Colin Kenny: Honourable senators, may I ask a question of the chair of the committee? It is a process question as much as anything. Does he and does the committee think that the concept of a 150-day report back from the government is a worthwhile exercise? My own instincts tell me that it is a waste of time. I do not say that in a partisan sense. I say that in an institutional sense. If honourable senators had taken the time to read the responses that came back 150 days later, they would worry more for the trees that were cut down and the paper that was wasted than about anything else.

• (1530)

When reports are tabled in the house, would it not be more effective if we were to set deadlines for government action and indicate that if we did not see a response by a certain date, we would recommence hearings on the subject matter and invite officials to appear before us to explain why the government had not taken action? Did the committee give any consideration to this approach rather than asking for the 150-day response that inevitably is canned, pureed, strained, filtered and mashed?

Senator Comeau: I understand the basis of the question. In 2000, the committee prepared a report on the northern fisheries. Parts of the current study, four years later, referred to the previous study. I think the honourable senator will note that we were not satisfied with the lack of progress during that time.

We decided to include it as part of the motion, although we have been quite satisfied with ministers' responses in the past, generally speaking, and the way in which they dealt with the questions on most subjects. We have not always been satisfied with the actual answer but certainly satisfied that we received a response.

In this case, we decided to use a slightly different approach, and we will see how it works. We hope that it will not take government 150 days to respond, but if it does, we will assess the quality of the response and evaluate whether the process is good.

On motion of Senator Watt, debate adjourned.

PROTECTION OF NAHANNI WATERSHED

MOTION URGING GOVERNMENT TO TAKE ACTION MOTION IN AMENDMENT DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Di Nino, seconded by the Honourable Senator Oliver:

That the Senate call upon the Government of Canada:

(a) to expand the Nahanni National Park Reserve to include the entire South Nahanni Watershed including the Nahanni karstlands;

(b) to stop all industrial activity within the watershed, including:

(i) stopping the proposed Prairie Creek Mine and rehabilitating the mine site,

(ii) ensuring complete restoration of the Cantung mine site,

(iii) immediately instituting an interim land withdrawal of the entire South Nahanni Watershed to prevent new industrial development within the watershed; and

(c) to work with First Nations in the Deh Cho and Sahtu regions of the Northwest Territories to achieve these goals.

And on the motion in amendment of the Honourable Senator Sibbeston, seconded by the Honourable Senator Christensen, that the motion be amended as follows:

(a) in paragraph (a),

(i) by adding the word "possibly" after the word "Reserve", and

(ii) by adding after the word "karstlands" the following:

"at an appropriate time and consistent with the cultural, social and economic interests of the people of the region, the Northwest Territories and Canada";

(b) in paragraph (b), by replacing the words "to stop" with the following,

"to protect the environmental integrity of the South Nahanni watershed by reviewing";

(c) in subparagraph (b)(i), by deleting the word "stopping" and the words "and rehabilitating the mine site";

(d) in subparagraph (b)(ii), by deleting the words "ensuring complete restoration of";

(e) in subparagraph (b)(iii),

(i) by deleting the words "immediately instituting an interim land withdrawal of the entire South Nahanni Watershed to prevent",

(ii) by deleting the word "and" at the end; and

(f) by adding, after paragraph (b),

(i) a new paragraph (c) to read as follows:

"(c) to include as part of the review:

(i) a response to the Senate report, *Northern Parks — A New Way* that indicates the government's policy to ensure employment and economic benefits from the creation of northern parks will flow to local aboriginal people, and

(ii) a complete assessment of mineral and energy resources in the area", and

(ii) by re-lettering the current paragraph (c) as (d).—(Honourable Senator Christensen).

Hon. Ione Christensen: Honourable senators, I rise to speak briefly to the amendment to the motion of Senator Di Nino in respect of the inclusion of the entire South Nahanni Watershed and the Nahanni karstlands in the Nahanni National Park Reserve.

I am in favour of national parks and reserves. In this world, where human impact spills out and swallows up every vestige of wilderness, national parks are often the only way to preserve something that is unique and one of a kind.

National parks are established to protect a very special piece of real estate, a land formation or a body of water. Although our tax dollars pay for such parks, some are so fragile that very limited or no access should be allowed. With every road, or even with each human footprint, a little more of that wilderness is diminished. The knowledge that that natural space is there at times is often all that is necessary.

I live in a part of Canada where we have 480,000 square kilometres of land and only 29,000 people. With a population like that, it is safe to say that most of our land is untamed wilderness. Yukon is blessed with many wilderness rivers — the Yukon, Teslin, Nisutlin, Pelly, Snake, Bonnet Plume, Stewart and the list goes on. Each river is a jewel, attracting dozens of ecotours from southern Canada, the United States and Europe each year. These people come for 10 days to enjoy the pristine beauty and then declare that it must be saved for posterity. They can no longer have such experiences in the areas where they live and work. They have no wish to reinstate what they have destroyed in order to make a living. However, they are very willing to support the saving of such wilderness far from home — a place where they can visit in future years.

What about the people who live in these areas year-round? Ecotourism is a legitimate industry and it is growing, but it is not the bread and butter of an economy. A region must have a diversified economy; in the North, that means not only tourism but also mining and silviculture. There are always trade-offs and sustainable development at times can truly be an oxymoron. Parks and mining do not mix and yet both are needed. Through careful planning and good social and economic evaluations, the necessary balance can be provided. We can and are doing a much better job than we have done in the past. With today's technology, environmental awareness practised by industry and stronger legislation to back it all up, we will succeed where we did not in the past.

Through all of this, it is the people living in the area affected who must make the decisions. The governments of the affected regions must provide for the needs of their people; and they should set the planning goals.

In the North, we are inundated by conscience money from southern lobby groups for more protected areas. We see this over and over. They have lost their virginity and believe that they should protect everyone else's.

Honourable senators, this pile of letters represents only a fraction of those I have received in the past week on this issue. Multiply this by four and imagine how many trees were felled for this letter-writing endeavour. It is not the most environmentally friendly approach. I think CPAWS encouraged this effort.

Even with the best of intentions, the land does not stay the same. Landscapes and watersheds are always changing. A major forest fire changes the climate, the watershed, the fish stocks, wildlife and habitat. Certainly, in the boreal forests of the North, forest fires are a common occurrence. Glaciers totally decimate the valley it chooses to flow through. With its heavily silted waters, it blocks off rivers and floods hundreds of square

kilometres of lush valleys. A mountain fault line collapses and fills a valley, changing the land. Drought, flood and melting permafrost all effect change that will be felt for hundreds of years.

I congratulate Senator Di Nino for bringing this motion forward to raise awareness for a wonderful river. While I have not canoed the river, I have been to Virginia Falls and can attest to its splendour. I support Senator Sibbeston's amendments, which would be a more reasoned approach. I know that I would be upset if such a motion came forward for the Yukon without first having input from the Yukon government, the Yukon First Nation governments and all others in the territory who would be affected directly or indirectly.

In one way, we are affected in the Yukon. The CanTung Mine on the headwaters of the Nahanni is part of one of the world's largest tungsten deposits, but it is staffed and serviced by road from Watson Lake in the Yukon. When in operation, this mine is the mainstay of the community.

I am not saying that the Nahanni National Park Reserve should not be expanded. Whatever is finally decided, it must not be imposed but rather developed with the full participation and agreement of the government and people who live there. The Northwest Territories is currently negotiating its devolution agreement, as we in the Yukon have already done. This will mean more responsibility for land development, and this motion would be an important part of that development.

On motion of Senator LeBreton, for Senator Di Nino, debate adjourned.

• (1540)

NATIONAL SECURITY AND DEFENCE

MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF NEED FOR NATIONAL SECURITY POLICY DEBATE ADJOURNED

Hon. Colin Kenny, pursuant to notice of April 20, 2004, moved:

That, notwithstanding the Order of the Senate adopted on February 13, 2004, the date for the final report by the Standing Senate Committee on National Security and Defence on the need for a national security policy for Canada be extended from June 30, 2004, to September 30, 2005.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, could we have an explanation for this request?

Senator Kenny: Honourable senators, I would be pleased to provide an explanation. It is in essence an insurance policy. We do not have a clue when the election will be called. In the absence of that, we ask the house to consider extending the order of reference.

On motion of Senator Lynch-Staunton, debate adjourned.

MOTION TO AUTHORIZE SUBCOMMITTEE
ON VETERANS AFFAIRS TO EXTEND DATE
OF FINAL REPORT ON STUDY OF VETERANS'
SERVICES AND BENEFITS, COMMEMORATIVE
ACTIVITIES AND CHARTER—DEBATE ADJOURNED

Hon. Joseph A. Day, pursuant to notice of April 20, 2004, moved:

That, notwithstanding the Order of the Senate adopted on February 26, 2004, the date for the final report by the Standing Senate Committee on National Security and Defence on Veterans' Services and Benefits, Commemorative Activities and Charter be extended from June 30, 2004, to September 30, 2005.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I would ask if Senator Day could give an explanation for this unusual request.

Senator Day: Honourable senators, the Subcommittee on Veterans Affairs of the Standing Senate Committee on National Security and Defence has been working in respect to this reference for some time. We should like to continue with this particular reference for the extended period of time that we are requesting. We do not believe that we should be speculating on when a general election may be called. However, we do believe that we should continue the mandate the Senate has given us. We are, therefore, asking for more time to do that work.

Senator Lynch-Staunton: Why does it suddenly take 15 additional months to complete a study?

Senator Day: The Subcommittee on Veterans Affairs felt that this was a reasonable time. If the honourable senator wishes to suggest a shorter period of time to complete our study, I am sure that will be considered.

This is a reference from this body. The committee believes that this proposal is reasonable. If, however, this chamber believes that some other time frame is more reasonable, then we would certainly follow the directions of the chamber.

On motion of Senator Lynch-Staunton, debate adjourned.

The Hon. the Speaker *pro tempore*: Honourable senators, pursuant to the order adopted by the Senate on April 1, 2004, the sitting is suspended until 5:15 p.m.

• 11:15

CRIMINAL CODE

BILL TO AMEND THIRD READING MOTION IN
SUBAMENDMENT NEGATIVED—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Joyal, P.C., seconded by the Honourable Senator

LaPierre, for the third reading of Bill C-250, to amend the Criminal Code (hate propaganda).

And on the motion in amendment of the Honourable Senator St. Germain, P.C., seconded by the Honourable Senator Stratton, that the bill be not now read a third time but that it be amended, on page 1, in clause 1, by replacing lines 8 and 9 with the following:

“by colour, race, religion, ethnic origin or sex.”.

On the subamendment of the Honourable Senator Angus, seconded by the Honourable Senator Stratton, that the motion in amendment be amended by adding, before the words “ethnic origin”, the words “pardoned convicts.”.

Motion in subamendment negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Angus	Keon
Cochrane	Lawson
Comeau	Lynch-Staunton
Cools	Plamondon
Di Nino	Rivest
Eyton	St. Germain
Forrestall	Stratton
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THE HONOURABLE SENATORS

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Austin	Joyal
Bacon	Kenny
Banks	Lapointe
Biron	Losier-Cool
Callbeck	Maheu
Chaput	Mahovlich
Christensen	Massicotte
Cook	Moore
Day	Morin
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The Senate adjourned until Thursday, April 22, 2004, at 1:30 p.m.

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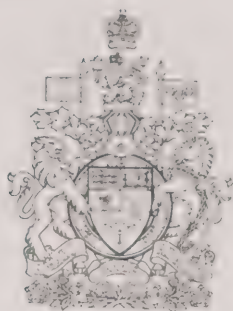
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Debates of the Senate

3rd SESSION

• 37th PARLIAMENT

• VOLUME 141

• NUMBER 32

OFFICIAL REPORT
(HANSARD)

Thursday, April 22, 2004

THE HONOURABLE LUCIE PÉPIN
SPEAKER *PRO TEMPORE*



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(Daily index of proceedings appears at back of this issue).

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THE SENATE

Thursday, April 22, 2004

The Senate met at 1:30 p.m., the Speaker *pro tempore* in the Chair.

[English]

Prayers.

[Translation]

ROYAL ASSENT

The Hon. the Speaker *pro tempore* informed the Senate that the following communication had been received:

RIDEAU HALL

April 22, 2004

Mr. Speaker,

I have the honour to inform you that the Right Honourable Adrienne Clarkson, Governor General of Canada, signified Royal Assent by written declaration to the bills listed in the Schedule to this letter on the 22nd day of April, 2004, at 9:52 a.m.

Yours sincerely,

Barbara Uteck
Secretary to the Governor General

The Honourable
The Speaker of the Senate
Ottawa

Bills Assented to Thursday, April 22, 2004

An Act to establish the Library and Archives of Canada, to amend the Copyright Act and to amend certain Acts in consequence (*Bill C-8, Chapter 11, 2004*)

An Act to amend the Criminal Code and other Acts (*Bill C-14, Chapter 12, 2004*)

SENATORS' STATEMENTS

REGIONAL COUNCIL OF ITALIAN-CANADIAN SENIORS

THIRTIETH ANNIVERSARY

Hon. John Lynch-Staunton: Honourable senators, this Saturday, April 24, the Regional Council of Italian-Canadian Seniors will be celebrating the 30th anniversary of its founding in Montreal, with a mass celebrated by the Apostolic Nuncio to Canada. This will be followed by a grand gala and dinner presided over by Quebec Lieutenant Governor Lise Thibault.

The regional council comprises 77 senior citizens' clubs with a membership of 14,000 who benefit from services and activities tailored to their needs. The success of the council over the years is due in large part to hundreds of volunteers, not the least is the one who founded it and deserves every accolade that she will receive on Saturday. I speak, obviously, of our distinguished colleague, the Honourable Marisa Ferretti Barth, who deserves warmest congratulations for her initiative and constant devotion to her community.

EXPLORASIAN 2004 FESTIVAL PERFORMANCES AND GALA AWARDS PRESENTATIONS

Hon. Vivienne Poy: Honourable senators, last week, I had the pleasure, along with my colleague and leader, Senator Jack Austin, and the Honourable Dr. Rey Pagtakhan of attending the explorAsian 2004 gala performances and awards presentations in Vancouver, hosted by the Vancouver Asian Heritage Month Society.

Over 1,000 people gathered at the beautiful Centre for the Performing Arts to enjoy the performances of an outstanding group of pan-Asian artists. This event launched the largest Asian heritage month festival in Canada, dubbed "explorAsian 2004."

Last year, over 120 separate events were held during the month of May in Vancouver, attracting more than 30,000 people. I suspect that, given its promising beginning on April 15, this year's festival will be bigger and better than ever.

Along with the fantastic performances, last week's events celebrated the achievements of Canadians of Asian descent who might otherwise go unrecognized. One of the most impressive award winners was Alex Wong, who won the Excellence in Youth Award. Alex, whose solo performance we all had the pleasure of watching, is the first Canadian ever to win the Prix de Lausanne, which is considered to be the Olympics of ballet. Alex is 17, and I note that, while he appeared on the cover of four major newspapers in Switzerland where the award was presented, no similar adulation greeted his success in Canada.

Honourable senators, it is time that changed. It is time we celebrated individuals such as Alex, because they represent our growing diversity, and they serve as an inspiration to other young Canadians.

In addition to publicly congratulating Alex Wong, I should like also to congratulate all the winners of the explorAsian awards who have contributed so much to the development of arts and culture in Vancouver.

The event I attended and, indeed, all the events that are held every May to mark Asian Heritage Month, are volunteer initiatives that add so much to our communities. Since this is National Volunteer Week, I should like to give special recognition to the contributions of all volunteers. In particular, in Vancouver, two individuals stand out: Beverly Nann and Don Montgomery, president and coordinator, respectively, of the Asian Heritage Month Society.

I would encourage all honourable senators to enjoy Asian Heritage Month in your communities across Canada by turning out in support of local events.

TAXATION OF SCHOLARSHIPS

Hon. Norman K. Atkins: Honourable senators, I would draw to your attention a subject that I have been addressing in this chamber for many years. The issue is the taxation of scholarships.

Yesterday, in *The Globe and Mail*, an article appeared highlighting the financial plight of a young student at Appleby College. This is of particular interest to me because, as a young man, I was also a student at Appleby College, an independent school located in Oakville, Ontario.

• (1340)

This young lady, a hockey star with the potential to play for Canada in the Olympics, received a scholarship from Appleby College that enabled her to attend the school. Her parents work four jobs between them to pay for part of her monthly tuition over and above her scholarship, yet she is faced with a huge tax bill on the scholarship part, which she is unable to pay.

Furthermore, it appears that no one advised the family of the looming tax bill. This is a direct result of the tax system in Canada, which penalizes excellence in education, and encourages what we all know as "brain drain." If this young lady from Sarnia, Ontario, had accepted one of the numerous scholarship awards offered to her south of the border, she would not face this tax burden because her scholarship would not have an income tax slip issued. However, her parents preferred she go to a school closer to home.

This issue is made worse by the fact that she is attending high school; therefore, there is no deduction for tuition, as there is for post-secondary education. The government has chosen to tax, as income, a \$35,000 break on tuition at a high school that allowed the student to attend when it otherwise would not have been possible.

Obviously, if this young lady were from an affluent family, this would not be such an issue because they could afford to pay the tax bill created. However, she is from a blue-collar family with five children and a major financial obligation.

Education institutions such as Appleby have set up programs to provide the opportunity for some students to overcome financial barriers. This should not then become a tax burden for either the student or the parents.

Scholarship dollars are donated by people who are interested in providing educational institution funds for worthy students. The government then taxes that income when a student receives it as a scholarship. I think this is unconscionable and unnecessary. We should be rewarding excellence, not penalizing it.

This is an example of why our tax system must be reviewed and modified. The money for scholarships and bursaries must be put directly in the hands of students. Otherwise, it distorts the purpose of the scholarship and in some instances creates extreme financial difficulties.

I ask: Why can the government not come to some resolution on this issue? The truth of the matter is that regardless of the number of exemptions, we are not dealing with a whole lot of money.

NATIONAL ORGAN AND TISSUE DONOR AWARENESS WEEK

Hon. Catherine S. Callbeck: Honourable senators, I rise to speak on an important opportunity to enhance the health or even save the lives of thousands of Canadians. This is National Organ and Tissue Donor Awareness Week. Although almost 2,000 Canadians were fortunate to receive an organ donation last year, twice as many others are still waiting. Tragically, for some, the wait is too long. Last year, an average of five Canadians a week died while waiting for a donated organ, up from an average of three a week in the year 2000.

During the past decade, the number of Canadians waiting for donated organs has almost doubled to nearly 4,000 last year. As our population ages and as new advances in medical technology increase the scope and the success rates of transplant operations, the need can only increase.

The past decade has seen strong growth in the number of living donors, with numbers more than doubling since 1994. The number of Canadians donating their organs at the time of death has been relatively unchanged for the past decade.

It is essential that all Canadians be aware of the need for and the vital importance of organ and tissue donation. A full donation by one person holds the potential to save up to eight lives through donations of vital organs, and to contribute to the health and quality of life of another 50 people through donations of tissues such as skin, bones and heart valves. No matter what the donor's age, as long as his or her organs and tissue are healthy, they can save a life or make it better. In so doing, that donor also makes an enormous contribution to reducing the long-term pressures on our health care system.

A recent poll suggested that many Canadians are already aware of these needs and benefits. Earlier this week, it was reported that almost three quarters of Canadians plan to donate at least one organ upon dying. Over half of these had already taken action to make their wishes known.

I thank those Canadians and urge them to take any further action needed to fulfil their compassion and goodwill by making certain that their families are informed. I also urge those Canadians who are open to donating an organ to learn more about the requirements in their province and to make the necessary arrangements should that day come when, in death, they can give the gift of life to others.

IMPORTANCE OF SPORT TO NATIONAL PRIDE

Hon. Francis William Mahovlich: Honourable senators, I would like to speak to you about the importance of sport to our national pride. Nothing unites Canadians more than our collective celebration of success on the world athletic stage. When we hear the names of Catriona LeMay Doan, Donovan Bailey or Jamie Salé and David Pelletier, we recall the pride felt while witnessing their world-class performances.

Society receives a tremendous benefit from sport and physical activity. Participation helps maintain a healthy population, enhances the social fabric of our communities and creates positive role models for our youth.

The recent federal budget injected an additional \$10 million into the Canadian sports system, bringing total Sport Canada funding to \$100 million a year. This investment will help ensure that more Canadians have the opportunity to participate and excel in sport.

In February, the Minister of State for Sport created an all-party sport caucus to stimulate discussion on sport-related issues. Many constituents across our country care deeply about our sports, and all parliamentarians, regardless of their party affiliation, have positive contributions to make. I consider this to be a very important development and I congratulate the minister for this initiative.

The minister stated:

We are serious about ensuring that all of our athletes have an opportunity to achieve excellence — from across the country and from playground to podium, they will continue to benefit from the important sport programs and services funded by the Government of Canada.

In addition, the Minister of Finance announced that \$310 million has already been committed to infrastructure required to host the Olympic Winter Games.

Today, I would like to speak up for Canada's athletes. Currently, Sport Canada spends approximately \$16 million of their budget on the Athlete Assistance Program. Did honourable senators know that the Athlete Assistance Program pays an Olympic-calibre athlete between \$500 and \$1,100 a month to live on? Many athletes, with their intense study and training schedules, find it difficult to make ends meet, especially when living in our major cities. The recent increase in funding will definitely help the situation. However, I feel that individual athletes, in particular, require more support.

Back in 2000, the Australians won a record 58 medals in the Sydney Olympic Games. In the years building up to the event, the Australian government substantially increased funding to its sports organizations and athletes. It appears this investment significantly improved Australia's medal count at the games.

Honourable senators, in six-years' time, the eyes of the world will be on the Vancouver/Whistler games, providing a golden opportunity to capture the hearts of all Canadians.

The Hon. The Speaker *pro tempore*: I regret to inform the honourable senator that his time has expired.

[Translation]

EARTH DAY

Hon. Joseph A. Day: Honourable senators, I have the honour to remind you that today is Earth Day.

[English]

Honourable senators, today marks the longest and most celebrated environmental event in the world: Earth Day. More than 6 million Canadians will join 500 million people in over 180 countries in staging events and projects to address local environmental issues. Nearly every school child in Canada takes part in some Earth Day activity.

Environmental crises abound as our daily actions pollute and degrade the fragile environment upon which humans and our wildlife depend to survive. What can we do?

• (1350)

Earth Day provides the opportunity for reflection and a renewed commitment to positive actions and results. First launched as an environmental awareness event in the United States in 1970, Earth Day is celebrated as the birth of the environmental movement. Earth Day has proven to be a powerful catalyst for change.

In Canada, Earth Day has grown into Earth Week, and even into Earth Month, to accommodate the profusion of events and projects. They range from large public events such as Victoria's Earth Walk, Edmonton's Earth Day Festival and Saint John, New Brunswick's Marsh Creek Sweep, to the thousands of smaller private events staged by schools, employee groups and community groups throughout the country.

By helping to raise awareness of our environment, Earth Day activities have contributed to dramatic improvements in our environment, including the quality of air that Canadians breathe. A recent study revealed that between 1974 and 2001, levels of sulphur dioxide in our air have decreased by 73 per cent, levels of particulate matter decreased by 54 per cent and lead levels fell by 94 per cent. These statistics are even more impressive given the fact that there has been a 30 per cent increase in the total number of motor vehicles registered in the same time frame.

Honourable senators will appreciate that there are still many challenges ahead for us as Canadians committed to protecting the environment. Honourable senators will, I am sure, want to honour today those individuals and organizations whose efforts have contributed to the success of the environmental movement thus far. Each of us will want to resolve to do more to protect this land in which we live, this planet on which we live, the Earth.

ROUTINE PROCEEDINGS

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SEVENTH REPORT OF COMMITTEE TABLED

Hon. Lise Bacon: Honourable senators, I have the honour to table, in both official languages, the seventh report of the Standing Committee on Internal Economy, Budgets and Administration, regarding security.

STUDY ON PRESENT STATE AND FUTURE OF AGRICULTURE AND FORESTRY IN CANADA

REPORT OF AGRICULTURE AND FORESTRY COMMITTEE ON BOVINE SPONGIFORM ENCEPHALOPATHY TABLED

Hon. Joyce Fairbairn: Honourable senators, I have the honour to inform the Senate that, pursuant to orders adopted on February 6 and April 1, 2004, the Standing Senate Committee on Agriculture and Forestry deposited with the Clerk of the Senate on April 15, 2004, the fourth report, interim, of the said committee, entitled "The BSE Crisis: Lessons for the Future."

Pursuant to rule 97(3), I move that the report be placed on the Orders of the Day for consideration at the next sitting of the Senate.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and report placed on the Orders of the Day for consideration at the next sitting of the Senate.

CUSTOMS TARIFF

BILL TO AMEND—REPORT OF COMMITTEE

Hon. David Tkachuk, Deputy Chair of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Thursday, April 22, 2004

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

FOURTH REPORT

Your Committee, to which was referred Bill C-21, to amend the Customs Tariff has, in obedience to the Order of

Reference of Thursday, April 1, 2004, examined the said bill and now reports the same without amendment.

Respectfully submitted,

DAVID TKACHUK
Deputy Chair

The Hon. the Speaker pro tempore: Honourable senators, when shall this bill be read the third time?

On motion of Senator Tkachuk, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

PUBLIC SERVICE COMMISSION

NOTICE OF MOTION TO APPROVE APPOINTMENT OF MARIA BARRADOS AS PRESIDENT

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That in accordance with subsection 3(5) of the *Act respecting employment in the Public Service of Canada*, chapter P-33 of the Revised Statutes of Canada, 1985, the Senate approve the appointment of Maria Barrados, of Ottawa, Ontario, as President of the Public Service Commission for a term of seven years.

CRIMINAL CODE

BILL C-250—PRESENTATION OF PETITION

Hon. Gerry St. Germain: Honourable senators, today again I rise to table thousands of petitions — some 6,275 plus. These residents of Canada, who join the 5,000 petitioners of yesterday's tabling, also wish to draw the attention of the Senate to the following, and I will only quote a brief excerpt from their petition statement:

Bill C-250 is opposed for a number of reasons, particularly that the Charter rights of freedom of speech and freedom of religion will be significantly eroded once this bill becomes law.

With adequate legal protections for all Canadians already in place, it is unnecessary and dangerous to pass the bill into law as its only aim is to inject fear into the public, thereby shutting out all discussions on sexual orientation not favoured by a special interest group(s) or activist(s).

Therefore, honourable senators, these petitioners pray that the Senate amend Bill C-250, to ensure that the freedom of speech rights of each Canadian are fully and equally protected, and, failing this, to defeat Bill C-250.

[Translation]

OFFICIAL LANGUAGES

BILINGUAL STATUS OF CITY OF OTTAWA— PRESENTATION OF PETITION

Hon. Yves Morin: Honourable senators, pursuant to rule 4(h) of the *Rules of the Senate*, I have the honour to table petitions signed by 29 people asking that Ottawa, the Capital of Canada, be declared a bilingual city and the reflection of the country's linguistic duality.

The petitioners pray and request that Parliament consider the following:

That the Canadian Constitution provides that English and French are the two official languages of our country and have equality of status and equal rights and privileges as to their use in all institutions of the government of Canada;

That section 16 of the Constitution Act, 1867, designates the city of Ottawa as the seat of government of Canada;

That citizens have the right in the national capital to have access to the services provided by all institutions of the government of Canada in the official language of their choice, namely English or French;

That Ottawa, the capital of Canada, has a duty to reflect the linguistic duality at the heart of our collective identity and characteristic of the very nature of our country.

Therefore, your petitioners ask Parliament to affirm in the Constitution of Canada that Ottawa, the capital of Canada be declared officially bilingual, under section 16 of the Constitution Acts from 1867 to 1982.

• (1400)

[English]

Hon. Marilyn Trenholme Counsell: Honourable senators, pursuant to rule 4(h) I have the honour to table petitions signed by another 24 people asking that Ottawa, the Capital of Canada, be declared a bilingual city and the reflection of the country's linguistic duality.

The petitioners pray and request that Parliament consider the following:

That the Canadian Constitution provides that English and French are the two official languages of our country and have equality of status and equal rights and privileges as to their use in all institutions of the government of Canada;

That section 16 of the Constitution Act, 1867, designates the city of Ottawa as the seat of government of Canada;

That citizens have the right in the national capital to have access to the services provided by all institutions of the government of Canada in the official language of their choice, namely English or French;

That Ottawa, the capital of Canada, has a duty to reflect the linguistic duality at the heart of our collective identity and characteristic of the very nature of our country.

Therefore, your petitioners call upon Parliament to affirm in the Constitution of Canada that Ottawa, the capital of Canada — the only one mentioned in the Constitution — be declared officially bilingual, under section 16 of the Constitutional Acts from 1867 to 1982.

[Translation]

Hon. Pierrette Ringuette: Honourable senators, pursuant to rule 4(h) of the *Rules of the Senate*, I have the honour to table petitions signed by 22 people asking that Ottawa, the Capital of Canada, be declared a bilingual city and the reflection of the country's linguistic duality.

The petitioners pray and request that Parliament consider the following:

That the Canadian Constitution provides that English and French are the two official languages of our country and have equality of status and equal rights and privileges as to their use in all institutions of the government of Canada;

That section 16 of the Constitution Act, 1867, designates the city of Ottawa as the seat of government of Canada;

That citizens have the right in the national capital to have access to the services provided by all institutions of the government of Canada in the official language of their choice, namely English or French;

That Ottawa, the capital of Canada, has a duty to reflect the linguistic duality at the heart of our collective identity and characteristic of the very nature of our country.

Therefore, your petitioners ask Parliament to affirm in the Constitution of Canada that Ottawa, the capital of Canada be declared officially bilingual, under section 16 of the Constitution Acts from 1867 to 1982.

[English]

Hon. Mac Harb: Honourable senators, I also have the honour of presenting a petition signed by many constituents in the Ottawa area asking that we declare the City of Ottawa officially bilingual.

QUESTION PERIOD

HEALTH

WEST NILE VIRUS—RISK OF INFECTION THROUGH BLOOD TRANSFUSIONS

Hon. Wilbert J. Keon: Honourable senators, I have a question for the Leader of the Government in the Senate about West Nile virus. Last week, it was reported that an elderly man in Ohio tested positive for the disease — which may be the earliest that a West Nile infection has occurred in North America, and probably is.

As a result of this early infection, can the Leader of the Government in the Senate tell us if Health Canada and its partners are changing their approach to fighting the spread of West Nile virus this year?

Hon. Jack Austin (Leader of the Government): Honourable senators, while I am aware that a great deal of attention is being paid to West Nile virus by Health Canada, I am not sure what change of approach Senator Keon would like to have me represent. Can he ask me a supplementary question?

Senator Keon: I agree that the supplementary will be helpful; I should have included it. The U.S. Centers for Disease Control and Prevention reported that six people became infected with West Nile virus last year in the United States through blood transfusions, and possibly donated organs, despite the fact that blood is screened for the virus. While the blood-screening system used in Quebec, and by Canada Blood Services has proven to be successful, this development in the U.S. does raise some serious questions.

Could the Leader of the Government in the Senate make inquiries and report — since I am sure he cannot give us an answer today — to this chamber as to whether the test used to screen donated blood against this virus has been evaluated or changed in the year since it has been introduced? What is the risk of infection here through transfusions, if the tissue of donor organs is being screened, as in the past?

Senator Austin: I thank Senator Keon for his question. I shall pursue the matter.

NEW NATIONAL STRATEGY—LONG-TERM FUNDING—DISCUSSIONS WITH PROVINCES

Hon. Marjory LeBreton: My question is for the Leader of the Government in the Senate. The Prime Minister gave a speech last week on his plans for health care reform. While the speech was short on specifics, the Prime Minister, once again, stated that a deal on long-term funding from the federal government is contingent on provincial agreement to various reforms, such as reducing waiting lists and addressing the shortage of physicians. In response to the speech, the provinces have warned that, while they recognize the need for reforms and more accountability, the federal government should not unilaterally dictate what those reforms should be.

What happens if a deal cannot be reached with the provinces this summer? Is the government's plan an all-or-nothing approach?

Hon. Jack Austin (Leader of the Government): Honourable senators, as Honourable Senator LeBreton knows, because she has had great experience in federal-provincial relations in her various previous emanations, these dialogues and discussions take place on two levels — one in public and one quite privately. As honourable senators may be aware, a meeting is underway between Ontario and Quebec to discuss their strategies vis-à-vis the federal government's proposals and the Prime Minister's outline of a new health strategy. Western premiers are doing the same. No doubt, a great deal of toing and froing will take place prior to the conclusion of the discussions.

However, the signs are very good at the provincial and federal levels for a constructive approach to a national health care strategy. The government is looking forward to a demonstration of the ability of both levels of government to serve the Canadian people effectively.

Senator LeBreton: Honourable senators, last week *The Globe and Mail* reported that the federal health care plan would increase funding permanently by more than \$2 billion annually. A recent Conference Board of Canada study stated that an additional \$5 billion is needed just to maintain existing services. *The Globe and Mail* also reported that, if a deal with the provinces could not be reached, the federal government would bring in legislation to establish national standards for health care, thereby forcing the provinces to comply.

Is the government concerned that the tone of the meetings may become as confrontational as prior meetings, if the federal government appears to be intruding on provincial jurisdiction while not offering enough in return?

Senator Austin: Nothing is more historic in the Canadian confederation than differences of view between the federal and provincial governments about funding, tax points, and generally the control over the revenues provided by the taxpayers of Canada. It is the fault line on which much government policy is made.

Beyond that, I can only tell the honourable senator that, in spite of what one might read, the engagement among the provinces with the federal government at the moment is moving in a very positive direction.

[Translation]

SPORT

SUMMER OLYMPICS 2004— PARTICIPATION OF DOMINIQUE VALLÉE

Hon. Madeleine Plamondon: Honourable senators, could the Leader of the Government in the Senate tell us whether Canada will be represented in the windsurfing discipline at the Athens 2004 Olympic Games? Let me explain: because of an injury, Dominique Vallée was unable to take part in the last round of qualifications before the Games. Nonetheless, she would be ready to join the Olympic team when the time comes. Why is Canada denying itself a representative of her calibre? Will Canada's spot be empty in this discipline at the Athens Games?

• (1410)

I know that in amateur sport, any athlete who has a problem can resort to alternative dispute resolution to file a complaint. I also know that agreements are reached between the Canadian Olympic Committee and the sports federations regardless of the sport. However, by making the criteria that Canadian athletes must meet stricter than the requirements of other countries, are we not preventing a windsurfer of the calibre of Dominique Vallée from representing Canada? Worse yet, are we not forcing our athletes to represent other countries in order to get to the Olympics?

My question is twofold: What is the status of Dominique Vallée's case, and will Canada's spot remain empty in this discipline at the Athens 2004 Games? The spirit of the Olympics must prevail over procedures.

[English]

Hon. Jack Austin (Leader of the Government): Honourable senators, the Government of Canada does not set the criteria, nor does it choose the eligible candidates to represent Canada at an Olympic event. That decision is made under the authority of the Canadian Olympic Committee, which is a member committee of the international Olympic Movement. I am sure that most honourable senators would prefer the system to work just as I have described it, and not have the Government of Canada or any political body make decisions about athletes.

A much more difficult problem to try to solve is what kind of weather any city should have on any particular day. I do not have an answer for the honourable senator, specifically because it does not come under the purview of the Canadian government.

[Translation]

Senator Plamondon: The question was asked in the House of Commons and the answer was that the complaint had to go to alternative dispute resolution. However, in the case of Dominique Vallée, consideration should certainly be given to the fact that she could have qualified had she not hurt her ankle. As a result, she is unable to complete the final step of qualifying. Athletes from other countries will participate with less stringent criteria.

She will be well enough to compete in the Olympics, but because physically she will have missed the qualifying meet, she will lose her turn. It is unfortunate that an athlete has to represent another country because the Canadian system currently lacks flexibility.

[English]

Senator Austin: I am sure the honourable senator will send this representation she has made in the Senate today to the Canadian Olympic Committee.

FINANCE

EQUALIZATION FORMULA— TREATMENT OF RESOURCE REVENUES

Hon. David Tkachuk: Honourable senators, my question arises from the meeting that the Saskatchewan Premier, Lorne Calvert,

had with the Prime Minister on Saturday. Mr. Calvert said that he raised two equalization issues with the Prime Minister. The first concerned possible retroactive redress for the way the equalization formula treats mining revenue in our province. Second, he asked that Saskatchewan get the same deal for its oil resource revenue as has been made available to Atlantic Canada.

On Monday, the *Star Phoenix* reported Premier Calvert as saying:

I am pleased to report that the prime minister will be speaking to Ralph Goodale, the minister of finance, and asking him to sit down with our officials and Harry Van Mulligen to look again at these two questions.

In the latest changes in the last budget, it was simply noted that the examination of resource revenues would be a priority the next time the program is renewed, which is five years from now, in 2009. Has the Government of Canada changed that policy as stated in the last budget?

Hon. Jack Austin (Leader of the Government): Honourable senators, I have no information on which I could base an answer to Senator Tkachuk.

Senator Tkachuk: Saskatchewan is not the only province that wants changes in the way the equalization formula treats resources. Is the government prepared to reopen the resource tax issue now, not only for Saskatchewan but also for all the other provinces?

Senator Austin: Honourable senators, I will endeavour to provide Senator Tkachuk with a definitive answer shortly.

PUBLIC WORKS AND GOVERNMENT SERVICES

AUDITOR GENERAL'S REPORT— SPONSORSHIP PROGRAM—LAYING OF CHARGES

Hon. Gerry St. Germain: Honourable senators, in one of today's leading newspapers, Jean LaPierre, the Prime Minister's Quebec political lieutenant, is reported as having said that he wants to see the RCMP lay charges soon against wrongdoers in the sponsorship scandal. Mr. Lapierre says it would provide "...relief, because I think people want to see people found guilty."

Some Hon. Senators: Oh, oh.

Senator St. Germain: Those are his words. I am just saying what he said.

Hon. Bill Rompkey: No, the honourable senator is saying what the paper said he said.

Senator St. Germain: Has a newspaper ever been wrong? Have reporters ever been incorrect? Is the honourable senator questioning the integrity of our media? That is shameful.

Senator Rompkey: Who would ever do that?

Senator St. Germain: The question is: Is this to expedite the process of justice to satisfy Mr. Lapierre's and the Prime Minister's political agenda? Is that what it is all about? Can the Leader of the Government in the Senate assure us that the RCMP is not taking direction from the PMO again?

Some Hon. Senators: Oh, oh.

Hon. Jack Austin (Leader of the Government): The answer to the question is that I can give such an assurance. We saw Commissioner Zaccardelli being asked that question in the committee in the other place yesterday, and he indicated most aggressively that he takes no political direction, nor has any been suggested to him.

With respect to the individual who is referred to by Senator St. Germain, of course Senator St. Germain knows he is a private citizen and, like any private citizen, he is entitled to express his views.

Senator St. Germain: I have a supplementary question, honourable senators. The leader has said that Mr. Lapierre is merely a private citizen, and that is correct. However, he has, according to the public record, taken up a role with the Liberal Party of Canada as the lead individual in the province of Quebec. I stand to be corrected, because as you Liberals have so adeptly pointed out, maybe we cannot rely 100 per cent on the media. However, can the Leader of the Government in the Senate tell us if Mr. Lapierre's comments reflect the view of the Prime Minister and his cabinet? The Leader of the Government in the Senate is part of the cabinet. Is this how the government plans to get to the bottom of the advertisement scam scandal, that is, lay a few charges and then shut down the investigation?

I hate to remind honourable senators of this, but it was done in connection with Stevie Cameron and Allan Rock against Prime Minister Brian Mulroney.

Some Hon. Senators: Shame.

Senator St. Germain: Will you continue this disgraceful misuse and abuse of power?

Senator Austin: The Honourable Senator St. Germain is, on the one hand, solicitous of the integrity of the RCMP and, on the other hand, in his supplementary question he attacks the integrity of that police force. The honourable senator cannot have it both ways. I am sure that he really means to say that he has no doubt that the integrity of the RCMP is unchallengeable.

Some Hon. Senators: Hear, hear!

Senator Austin: With respect to the question relating to Mr. Lapierre, he speaks for himself. As a citizen of Canada, he has every right to do so, whether he is right or whether he is wrong.

Senator St. Germain: As a short supplementary question, is the Leader of the Government in the Senate saying that we will not

see Mr. Lapierre as part of the Liberal machine in Quebec in the next federal election?

Senator Austin: I am saying that any attempt on the part of Senator St. Germain to have this government take responsibility for the words of a private citizen is not likely to be successful.

• (1420)

PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

NATIONAL SECURITY—ALLOCATION OF FUNDS

Hon. J. Michael Forrestall: Honourable senators, my question for the Leader of the Government in the Senate deals with rumblings in the press over the last day or so about an additional \$500 million in spending for national security purposes. The government would not spend that sum on an election, would it?

I think there are some grounds to understand that the new money will be used to address the concerns outlined in the recent report of the Auditor General. Can the minister confirm this so that we might have an understanding of the general thrust with respect to security?

Hon. Jack Austin (Leader of the Government): Honourable senators, the question of national security is a significant one. In yesterday's Question Period we began an important reference to the topic.

The government has underway the preparation of a comprehensive national security policy that I hope will be announced shortly. Until it is announced, I am not in a position to provide the Honourable Senator Forrestall with any further information.

Senator Forrestall: Can the minister indicate whether there will be a statement addressing this question of security within the next week and that it will involve the expenditure of additional funds for security purposes?

Senator Austin: Honourable senators, I can only tell Senator Forrestall that the government intends, quite shortly, to make a major statement on national security. I will welcome questions from Senator Forrestall and other senators when that policy statement is tabled.

Senator Forrestall: Minister McLellan and other authorities in the government have addressed the question of an oversight of parliamentary input. I ask my questions from the point of view of that input. For example, it would be helpful for parliamentarians to know if this money will be used for identification, for passport control, the so-called fingerprint program, or for additional personnel at our borders. Is it no longer a desire of the government to have input based on some knowledge of what the government is concerned about? In the final analysis, as far as questions regarding our security are concerned, I am sure that Canadians, and private citizens generally, are not that far removed from those of the government and, in particular, the advisers to government with respect to these matters.

Senator Austin: Honourable senators, there is probably no more senior responsibility of any government than the security of its citizens. In that light, and in response to questions yesterday, I outlined what the federal government has done since September 11, 2001, including an expenditure of approximately \$8 billion on the security of Canadians.

Shortly, the government will release a comprehensive statement on a variety of national security issues. I know that Senator Forrestall takes great interest in these questions, and I welcome the opportunity to exchange views with him when that statement is made.

Senator Forrestall: The Real Time Identification Program, or RTID, is a matter of some concern. As the minister will be aware, the Auditor General identified in her report that the RCMP's LiveScan fingerprint program has been virtually useless, since the accompanying technology needed to process the fingerprint information generated by LiveScan was not purchased for that use. As a result, the processing continues to be done on a manual basis, which is very time consuming.

Can the Leader of the Government in the Senate assure us that with this new spending he will use his good offices — because this is something we can do almost immediately — to help the RCMP and security people out with the purchase of this additional equipment so that the scanning can be done in real time and not by next Christmas?

Senator Austin: Honourable senators, I really enjoy the probing nature of Senator Forrestall's questions. His statement based on the Auditor General's report is, of course, an accurate statement of fact and has been, in my view, recognized and taken into account. That is about as far as I can go at the moment.

While I am on my feet, I would like to answer a question asked by Senator Andreychuk yesterday. There are no plans to introduce a national identity card based on biometric identification.

SOLICITOR GENERAL

ROYAL CANADIAN MOUNTED POLICE— RESENE OF CONSTABLES IN DRESS UNIFORM AT LIBERAL NOMINATING MEETING

Hon. Lowell Murray: Honourable senators, what became of the question I asked many weeks ago about the RCMP's practice of renting out red-coated constables as mannequins to decorate various political, cultural and social events? I would like to have an answer to my question in case I want to make an election issue of it.

Hon. Jack Austin (Leader of the Government): Honourable senators, Senator Murray's real question is what became of the answer to his question. I will have another search for it.

HEALTH

LOCATION OF CENTRE FOR DISEASE CONTROL— SCORING CRITERIA IN SELECTION PROCESS

Hon. Terry Stratton: Honourable senators, my question is for the Leader of the Government in the Senate. A couple of days

ago, we were discussing the location of the proposed disease control centre. Senator Austin bragged about his area of the world as being the best location for such a centre. I tried to do the same thing for Manitoba.

As a part of the answer to the question, the minister mentioned the scoring and the number of points allotted to each location. Were Manitoba and B.C. the only two locations, or was Ottawa included in the scoring? If so, what was the score? Are the scores available? Are they on a Web site? As well, is the matrix for the criteria that established the questions to develop the scoring available?

Hon. Jack Austin (Leader of the Government): Honourable senators, as I said yesterday, the report in question was written by a scientific peer group headed by Dr. David Naylor. The question they were asked to answer was: What is needed to establish a comprehensive centre for disease control in Canada? A matrix of 20 points was developed. They then compared the American Centers for Disease Control in Atlanta to the points that they had established. I believe — and this is from memory — that they gave Atlanta 14 points. They gave Vancouver 12 points and Winnipeg 4. No other centre received any greater number than Winnipeg.

As I said the other day in Question Period, the federal Level 4 lab is situated in Winnipeg. To my information, there are only two such labs in North America, the other one being in Atlanta.

• (1430)

It is a very important facility in the consideration of a Canadian network to deal with disease control. The reality is that there are assets for various functions in many parts of Canada, including Toronto, Guelph, Hamilton, Halifax, and Saskatoon.

The purpose of the study was to identify what is required for a comprehensive disease control system. One of the bases of the study is: How capable is the electronic linkage system to make this virtually one centre?

I believe that the report is public, but if it is not, I am now telling you a good deal about it. Senator Keon tells me that the report is public.

If I may continue, the report is an important part of an overall analysis of public health requirements in Canada. Part of the current policy discussion relates to the location of a designated public health officer and the designation of a chief science officer for health standards in Canada. I do not have the exact title before me.

I am trying to be neutral. Inevitably, once the political leaders in various communities discovered that we had a science report with various conclusions that are science-based — not based on political views, regional interests or economic spin-offs — the Premier of British Columbia, the Premier of Manitoba and other premiers, and other federal and provincial political leaders started a campaign to acquire as much of the new developments as possible. This is not, in a Canadian federation, ever easy.

I should not fail to mention a major research centre in Quebec, which has to be, in some form, part of national disease control.

As the question asked by Senator Keon a few minutes ago indicated, there are imminent threats to Canadian health based on both chronic and infectious diseases. There is now an attempt to bring about a comprehensive response.

I cannot tell Senator Stratton how the pieces are falling at the political level but the science community is quite clear about what should be done.

DELAYED ANSWER TO ORAL QUESTION

Hon. Bill Rompkey (Deputy leader of the Government): Honourable senators, I have the honour to table the answer to a question by Senator Tkachuk, asked on February 17, regarding the Business Development Bank and the Quebec court ruling exonerating the former president.

JUSTICE

BUSINESS DEVELOPMENT BANK—QUEBEC SUPERIOR COURT RULING EXONERATING FORMER PRESIDENT

(Response to question raised by Hon. David Tkachuk on February 17, 2004)

On March 12, 2004, on behalf of the Government of Canada, Industry Minister Lucienne Robillard announced the termination of the appointment of Michel Vennat as Chief Executive Officer (CEO) of the Business Development Bank of Canada (BDC).

The Governor in Council had concluded that Mr. Vennat's conduct in respect of the matters addressed in the Quebec Court's decision in the Beaudoin case was incompatible with his continued appointment.

Canada, in the case of *Figueroa v. Canada*. The court accepted the argument that the existing requirement under the Canada Elections Act that a group of 50 candidates must run in order for a group to remain a political party was too onerous.

The Communist Party of Canada failed to meet that requirement in the 1993 election and lost its registration status as a result. We must confirm what happened in committee, but I believe that Mr. Figueroa made the offer to the then Leader of the Government in the House, Don Boudria, that if the limit was lowered from 50 to 12, he would not proceed with the case. Apparently Mr. Boudria rejected that offer and said that they would abide by the court decision.

For the benefit of this chamber, I suggest that the committee should ascertain if this is a true and accurate statement of the events that transpired.

Mr. Figueroa then successfully argued that the requirement violated the Charter of Rights and Freedoms because it undermined the right of each citizen to meaningful participation in the electoral process. The court struck the requirement down but suspended the ruling for one year, which is to say until June 27, 2004, to allow Parliament to make changes to the legislation.

I am sure that Senator Murray is quite interested in this, as are other people and groups across the country, because to lower the limit from 50 to 1 will create a most interesting situation.

In its conclusion, the majority decision in the Supreme Court was clear on the point when it said:

It may well be that the government will be able to advance other objectives that justify a 12-candidate threshold. But suffice it to say, the objectives advanced do not justify a threshold requirement of any sort, let alone a 50-candidate threshold.

Here we have a lowering from 50 to one. Included in the criteria described by Senator Mercer would be the lowering of the figure to one. There is a requirement for 250 members, an executive of four and a stated overall philosophy or objective. The Chief Electoral Officer would then make a determination as to whether this was a viable political party, as it were.

You can see what is likely to happen with respect to this. Many sincere groups will seek recognition as official political parties. I can visualize a swath across the country.

Earlier, I made the comment to Senator Mercer that this appears to be the first step towards proportional representation, which those on this side favour because we would break the back of the hegemony of the Liberal Party governing Canada. That is the position of the Conservative Party. I have no idea what others in this room believe.

Honourable senators, having faced that issue, Bill C-3 is a knee-jerk response. One almost wonders why there is a requirement that a party run a candidate at all. Rather than set a lower, more reasonable and defensible requirement in relation to the number of candidates, the government has followed what appears to be a somewhat safer route to ensure compliance with the decision of the Supreme Court by adopting a one-candidate, one-party rule.

ORDERS OF THE DAY

CANADA ELECTIONS ACT INCOME TAX ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Mercer, seconded by the Honourable Senator Munson, for the second reading of Bill C-3, to amend the Canada Elections Act and the Income Tax Act.

Hon. Terry Stratton: Honourable senators, I rise to speak to Bill C-3, to amend the Canadian Elections Act. This bill is the government's response to a ruling by the Supreme Court of

• (1440)

My view is that a threshold, if you can call it that, of one candidate is simply too low and has the potential to damage the effective operation of the electoral system. Whether this is a provable proposition remains to be seen. However, it may become self-evident if all-candidate debates are rendered impractical or impossible due to the proliferation of parties and the ballot paper becomes longer than your arm. Perhaps that is what the Liberal Party wants. Is that what you want as an end result — no public debate?

It is not difficult to foresee problems arising from Bill C-3. Even with the relatively large addition of bureaucratic red tape in the requirements, including the need for a candidate and a leader, at least three officers, a chief agent, an auditor, at least 250 electors with a list being submitted to the Chief Electoral Officer at least once every three years, and various signatures and certifications, even with all that and more, the financial advantages of forming a political party are such that we may see a large number of new parties being established for future elections.

I can envision, for example, a "Save our School," or SOS, party being formed to bring attention to a pending closure of a school in an individual electoral district. The parents could get together, run a candidate with a single-issue platform of keeping a particular school open, and obtain tax benefits and a certain amount of free publicity in their campaign. Honourable senators will recall that recent changes to electoral financing will also provide continuing funding even after the election is over and even if the school that was the subject of the party's platform has been reduced to rubble.

This is not to suggest that an organized effort to draw attention to an issue is in any way wrong in principle. However, the formation of a federal political party should carry with it something more substantial and with a broader purpose for the benefit of the nation.

There is a safeguard of sorts within the bill, part of an attempt to reduce or prevent abuse. Under Bill C-3, the Chief Electoral Officer has a responsibility to make judgments about the appropriateness of a platform, the policies advanced, the nature and extent of the activities of the party and how the party uses its funds. This raises a completely different set of issues, and I am sure the Chief Electoral Officer will have concerns about the new role this proposed legislation gives him in policing such matters. I can imagine how thrilled the Chief Electoral Officer is at the prospect of having to deal with this. Rendering decisions in these areas may well call into question the impartiality of the Office of the Chief Electoral Officer, because he will have been brought deeper into the process itself, rather than having been kept above the fray as an unbiased administrator of it.

What would happen if the Chief Electoral Officer were to make a decision to not recognize a group? Would the group then go before the Supreme Court to challenge the ruling? Of course, it would do that. Thus, we are on the treadmill once more over definition — again and again and again — as a result of this bill and this definition. In other words, there would be more law and

more legal work; we just do not seem capable of dealing with an issue in a way that is easier than creating another law. With Bill C-3, we are creating another set of logistical hoops to jump through so that an individual can ultimately challenge it in court if his or her bid is not successful. Why are we doing this without taking the appropriate time? There is a wish to have this done before June 27, and there has been ample time to prepare or to ask the courts for a delay in the date so that this bill could be more completely studied than it has been to date.

The increased demands on political parties contained in Bill C-3 and previously adopted in the last session in Bill C-25 may be sufficient in combination to discourage the formation of single-candidate parties or of parties with very few candidates. Frankly, I would prefer to see the government and Parliament make a concrete decision imposing a reasonable threshold and then defending it, rather than apparently trying to circumvent the ruling of the Supreme Court of Canada by putting up a series of bureaucratic obstructions that effectively make it impractical to form a new political party. Think about that, the other side of the coin. The bureaucratic obstacles in this are such that it becomes more difficult to form a legitimate political party.

In conclusion, Bill C-3 is fraught with problems. It may be both necessary and sufficient as an interim measure to deal with the difficulties imposed by the narrow timeframe in which we are currently operating, but I do not regard it as a satisfactory solution. I look forward to discussions in committee that will address some of the issues that have been raised here and elsewhere in respect of this bill. I would hope that a recommendation comes forward that this proposed legislation be interim only, with a limited lifespan, to be replaced by something far more effective so that legitimate political parties will have the opportunity to form in a reasonable fashion without this kind of bureaucratic involvement.

I am always impressed by how we seem to make things so much more complicated than they really need to be. In this instance, we are doing exactly that, and we should ask ourselves why.

The Hon. the Speaker pro tempore: Are honourable senators ready for the question?

An Hon. Senator: Question!

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker pro tempore: Honourable senators, when shall this bill be read the third time?

On motion of Senator Rompkey, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

MARRIAGE BILL

SECOND READING—DEBATE ADJOURNED

Hon. Anne C. Cools moved the second reading of Bill S-10, to amend the Marriage (Prohibited Degrees) Act and the Interpretation Act in order to affirm the meaning of marriage.—(*Honourable Senator Cools*).

She said: Honourable senators, I rise to speak to Bill S-10, a tiny bill whose long title, if and when passed, would be, an act respecting marriage, and the short title would be, the marriage act. For the purposes of this debate, I shall speak to the marriage act.

I am mindful that most honourable senators are aware of the current social and political situation in this country in respect of the claims of homosexual persons for inclusion in the institution of marriage.

• (1450)

My bill, under the meaning of marriage, would essentially say, as it does in clause 1.1:

Marriage is the lawful union of one man and one woman to the exclusion of all others,

(a) solemnized under the laws of the province in which the marriage takes place; or

(b) valid by the law of a foreign country in which the marriage takes place if the marriage is also recognized as valid in Canada under the laws of Canada.

Honourable senators, I thought I would give a little bit of a retrospective. If honourable senators were to look at the Senate record, for example, of June 13, 2001, senators would find a full speech of mine on my then marriage bill, S-9, in which I outlined the history of the law of marriage in Canada and in the U.K. I will use a slightly different flavour today and look at some of the claims being made on the question of marriage.

I will begin, honourable senators, by citing a Supreme Court of Canada judgment in 1999, being the judgment in *M. v. H.* As honourable senators would know, the issues in *M. v. H.* were the constitutional challenges regarding the Ontario Family Law Act, section 29, in particular, the spousal support section. This challenge was obviously brought about by certain homosexual persons, couples, essentially challenging the law, claiming entitlement as common-law spouses to spousal support.

Honourable senators, that challenge had an interesting result in that it treated these couples as spouses. M and H were women. It is interesting that I am speaking about marriage because even until that time, the government — the then Minister of Justice Anne McLellan, and the former Minister of Justice Allan Rock — said that none of this will apply to marriage or put it at risk. It is all very interesting in terms of that female homosexual couple. It is all very curious that that particular section of the Family Law Act of Ontario was challenged. The interesting thing about the

history of that section in the Family Law Act regarding spousal support for common-law couples was that those provisions were created to protect children of common-law spouses. In other words, the provision was moved and motivated as a way of encouraging common-law couples to marry, and it was motivated by the fact that many of these common-law spouses, women, had children. Obviously it is the women who gave birth. The legislative intention has been to encourage couples, men and women, to marry, to promote marriage. This is one of the bewildering things about our community today, where every single principle has been turned on its head.

The first principle that has been turned on its head, to my mind, is that the notion of equality creates an entitlement to the institution of marriage, with which I strongly disagree.

As I go on today, I would like to deal a little bit with what I call homoerotic impulses and homoerotic inclinations, but before I do that I wish to quote *M. v. H.* Honourable senators, at that time Mr. Justice Charles Gonthier of the Supreme Court of Canada dissented very strongly with the majority judgment. The majority judgment was led by Mr. Justice Frank Iacobucci. Mr. Justice Gonthier dissented strongly because he believed that the claims submitted and held in *M. v. H.* would open the door, in a very deliberate way, to a raft of relationship claims, including polygamy and who knows what else. Many polygamy claims are now in the making. I have been reading about this in the United States of America.

In defence of what he was saying in dissent, Mr. Justice Gonthier — we all know him, having seen him many times here at receptions in the Speaker's chambers — had the following to say at paragraph 155:

Plainly, this appeal raises elemental social and legal issues. Indeed, it is no exaggeration to observe that it represents something of a watershed. ...However, I am unable to agree with my colleagues' disposition of this appeal or their underlying reasons for so doing. I believe that the stance adopted by the majority today will have far-reaching effects beyond the present appeal. The majority contends, at para. 135, that it need not consider whether a constitutionally mandated expansion of the definition of "spouse" would open the door to a raft of other claims, because such a concern is "entirely speculative." I cannot agree. The majority's decision makes further claims not only foreseeable, but very likely.

Mr. Justice Gonthier disagreed with the position that the majority adopted that any concern for the future of the law, in this respect, was speculative in nature. It is quite interesting. Mr. Justice Gonthier's opinion is very important, and at the time I commended it and I lauded it.

He continued in another paragraph to condemn Mr. Justice Iacobucci's paragraph 135, where Mr. Justice Iacobucci said:

Thus, arguments based on the possible extension of the definition of "spouse" beyond the circumstances of this case are entirely speculative and cannot justify the violation of the constitutional rights of same-sex couples in the case at bar.

This is very fascinating because it turns out that Mr. Justice Gonthier is absolutely right. This was only 1999. I could show senators letters from then Minister of Justice Anne McLellan where she wrote to citizens all over the country saying essentially not to worry at all, that there is no need for the court to touch marriage, and that all the rights that homosexual couples will need, the government is providing.

What Justice Iacobucci and the majority said they need not consider and dismissed as entirely speculative, and what Justice Gonthier faced directly in declaring that the majority's decision would lead to, has unfolded exactly as he said.

In the last several days I have been reminded of the work I did in my days as a social worker. I want to share with honourable senators today the case of a gentleman, a homosexual man, named Everett George Klippert. Most of you here, I would submit, have never heard that name, but this was a man who was convicted on many counts of gross indecency. I had the advantage of reading that case because I was very interested in this subject matter and in this kind of miscarriage of justice.

• (1500)

When I was on the National Parole Board, I had the opportunity to read these case files first hand. I will not be divulging the information from those files. What I want to do is call to the attention of senators today the Supreme Court of Canada case about Klippert. The condition and the plight of Mr. Klippert was one of the foundations for the decriminalizing of private sexual acts between consenting adults. I thought that the record would be well-served by bringing that to your attention.

On December 21, 1967, Mr. Trudeau, then Minister of Justice, in a media scrum outside the House of Commons, which was reported on CBC television news stated:

Take this thing on homosexuality. I think the view we take here is that there's no place for the state in the bedrooms of the nation, and I think what's done in private between adults doesn't concern the Criminal Code. When it becomes public this is a different matter...

There are different versions of these quotations, because it was a scrum. Another version had Mr. Trudeau adding:

...or when it relates to minors this is a different matter...

I want to put this matter into context. What we have now is a new phenomenon where we are not content to accept the principle Mr. Trudeau articulated — and I supported him with passion and zeal. We are not content to have privacy in the bedroom and to have the law changed to reflect the notion that the law should not inquire into what goes on in the bedrooms of the nation. The activists created a phenomenon, a situation in which the original notion of privacy has been overturned. What we now see is the bedrooms of the nation having a place in the state.

Honourable senators, Mr. Trudeau never intended for a moment that his beloved Charter would be used as an instrument or a tool to do this. At that time, Mr. Trudeau stood, in my mind, as the icon of justice.

Two years after Mr. Trudeau's statement and the Supreme Court judgment in *Klippert*, the Honourable John Turner, then Minister of Justice, at second reading of Bill C-150, the Criminal Law Amendment Act, 1968-69, in the House of Commons, on January 23, 1969, stated that:

These amendments remove certain sexual conduct between consenting adults in private from the purview of the criminal law.

Adults at the time were persons aged 21 years and older. Mr. Turner and Prime Minister Trudeau's amendment was motivated in part by the sad and terrible case of Everett George Klippert and the 1967 Supreme Court decision of *Everett George Klippert v. Her Majesty the Queen*. Klippert at the time was a 39-year-old man from Pine Point in the Northwest Territories. He was a homosexual in a small community, known to the police, and frequently visited by them.

His criminal record showed 18 convictions for similar charges. Klippert pleaded guilty in August of 1965 to four charges of acts of gross indecency. We must understand that the law, as it stood, was rarely invoked. For a prosecution to take place, it meant one of the partners in those acts had to make a complaint. Klippert engaged with adults, but there was a case where, unfortunately, he was lied to by a minor, a younger person about his age. However, that is another matter.

We must understand, honourable senators, that this occurred at a time when, after so many charges, episodes and encounters with the system, an offender like this would have been declared a dangerous offender in the blink of an eye. Those provisions were cleaned up at Mr. Turner's and Mr. Trudeau's initiative.

In any event, in August, Mr. Klippert pleaded guilty in August 1965 to four charges of committing acts of gross indecency. After his sentencing, not content that he was sentenced, the Crown made application to declare him a dangerous offender. Mr. Justice Sissons made the finding and imposed a sentence of preventive detention.

Honourable senators, preventive detention is a severe sentence. Two psychiatrists testified that Mr. Klippert had never caused any injury or pain to any individual and was unlikely to cause pain or injury to anyone in the future. Further, he would likely recommit the same offence with other consenting male adults. In short, Mr. Klippert was a homosexual man and most likely to remain one. Judge Sissons declared Klippert a dangerous offender because he was a practising homosexual.

Mr. Klippert's appeal to the Court of Appeal in the Northwest Territories was dismissed. He appealed to the Supreme Court of Canada. That court dismissed his appeal. This is the case and the judgment that spurred action on changing the criminal law.

Honourable senators, the reason I know this is that I have had the fortune of having met with the gentleman who conducted the study for Privy Council Office.

Interestingly, in this Supreme Court decision, Chief Justice J. Cartwright and Justice Emmet Hall dissented and indicated that they would have allowed the appeal. The result, honourable senators, was that the law was changed. The Criminal Code was amended on the inspiration of their dissenting judgment. Chief Justice Cartwright wrote the reasons, which founded part of the government's political decision to decriminalize homosexual sexual acts between consenting adults. In those reasons, Chief Justice Cartwright wrote that Mr. Klippert was neither violent nor harmful to anyone, and had engaged sexually only with consenting adults — remember, the issue was the declaration of a dangerous sexual offender. Chief Justice Cartwright wrote:

I am glad to arrive at this result. It would be with reluctance and regret that I would have found myself compelled by the words used to impute to Parliament the intention of enacting that the words "dangerous sexual offender" shall include in their meaning "a sexual offender who is not dangerous"... I think it improbable that Parliament should have intended such a result.

The new statute did not spare Mr. Klippert his sentence. However, mercifully, he was released on parole two years later in 1971.

As I said before, honourable senators, when I was on the National Parole Board, I studied this case exhaustively.

Honourable senators, I would like to provide some insight into the intellectual background of the Criminal Code changes. Mr. Martin refers to the democratic deficit. Well, I could talk about also say there is a "justice deficit" or a "moral deficit." I shall now give a concrete example of the thinking that formed the basis for the actions to decriminalize homosexual sexual acts between consenting adults. I shall now give part of what I would consider the intellectual or conceptual framework for re-examining the criminal law.

• (1510)

Honourable senators, Mr. Turner as well as Mr. Trudeau, as were most people at the time, were very mindful of a report that came out of England. That 1957 report was called, "Report of the Committee on Homosexuality Offenses and Prostitution." Sir John Wolfenden chaired that committee. That report bears his name to this day. It is excellent, must-reading and is known as the Wolfenden report.

Minister of Justice John Turner, when he introduced the amendment to the Criminal Code on January 23, 1969, cited this report in his second reading speech on Bill C-150. Mr. Turner said as follows — but he is quoting directly from the Wolfenden report. Of course, my style, my technique, is to quote from the original source, because honourable senators would be amazed at

how many mistakes are made daily. Mr. Turner said as follows, and the Wolfenden Report said as follows:

Unless a deliberate attempt is to be made by society, acting through the agency of the law, to equate the sphere of crime with that of sin, there must remain a realm of private morality and immorality which is, in brief and crude terms, not the law's business. To say this is not to condone or encourage private immorality. On the contrary, to emphasise the personal and private nature of moral or immoral conduct is to emphasise the personal and private responsibility of the individual for his own actions, and that is a responsibility which a mature agent can properly be expected to carry for himself without the threat of punishment from the law.

Honourable senators, this is very important because we have seen the practical, intellectual and legal foundations for bringing about that change in 1969. As honourable senators know, we have so many debates here and so little of this information is ever put on the record. I, being antiquarian by nature, love to unearth this material, especially since I have spent so much of my life reading and studying it.

Honourable senators, I do not understand how the law and the current social situation has leaped from the notion that the law should not inquire into people's private sexual lives, either to condemn or to censure. If the principle is that the law should not inquire, I do not understand how we have moved from a position that the law should not inquire or condemn and the Criminal Code should not intrude to the current position that the law must inquire and not only not condemn but approve. That is what we are dealing with in this whole phenomena of marriage and the claims of some homoerotic persons that to not be allowed to marry is somehow a violation of their dignity.

Honourable senators, marriage is not now and has never been a right. Marriage has always been a grand privilege at the hand of Her Majesty's Royal Prerogative. That is the funny thing about marriage and divorce. Two people cannot marry nor divorce themselves. It is an interesting thing. The other party in both is Her Majesty. Her Majesty is a party to every single marriage and every single divorce. The thing about a marriage is that, once that marriage bond has been formed and pronounced upon, usually by ministers of a church, there is no voluntary act that the two parties can take to end their marriage in and of their own voluntary wishes. It involves a decree of Her Majesty. Marriage is a unique and a very important social institution.

Honourable senators, I want to move from here to hearing some poets on the question of their homosexuality. I have often found it helpful, when understanding fails in an intellectual way, to look to the muses, to the poets, to the playwrights, because they have ways of crystallizing words in profound and poignant ways.

The first one I should like to cite is Jean Genet. For those of you who no longer remember him, he was a great French novelist and playwright in what is known as the French Theatre of the Absurd, which was post-World War II.

Jean Genet had a hard, hard life. He was an orphan and a thief. He spent much of his youth in prison. He was discovered by John Paul Sartre and became one of France's Men of Letters. It is interesting, because his play that captured North America's attention greatly was the play called, *The Blacks — Les Negres*. It was well reputed and well known at the time.

There is a homosexual writer by the name of Edmund White, who, in 1993, wrote and published a biography of Jean Genet entitled, *Genet: A Biography*. In this book, he wrote of a 1964 interview between Madeleine Gobeil and Jean Genet. White quoted Genet that — quote:

Pederasty was imposed on me like the colour of my eyes, the number of my feet. Even when I was still a kid I was aware of being attracted by other boys, I have never known an attraction for women. It's only after I became conscious of this attraction that I 'decided', 'chose' freely my pederasty, in the Sartrean sense of the world. In other words, and more simply, I had to accommodate myself to it even though I knew that it was condemned by society.

Honourable senators, later in White's book, his biography of Genet, he records an undated letter from Jean Genet to Jean Paul Sartre.

• (15:20)

In this letter, Genet writes about his homosexuality because he and Jean Paul Sartre had an intellectual exchange about this phenomenon. It is very troubling and well articulated, but it tells of the torment in which Jean Genet lived. Genet stated, as quoted by White in this biography:

In any event the significance of homosexuality is this: A refusal to continue the world. Then, to alter sexuality. The child or the adolescent who refuses the world and turns toward his own sex, knowing that he himself is a man, in struggling against this useless manliness is going to try to dissolve it, alter it; there's only one way, which is to pervert it through pseudo-feminine behavior. That's the meaning of drag queens' feminine gestures and intonations. It's not, as people think, nostalgia about the idea of the woman one might have been which feminizes, rather it's the bitter need to mock virility....

Significance of pederastic love: it's the possession of an object (the beloved) who will have no other fate than the fate of the lover. The beloved becomes the object ordained to 'represent' death (the lover) in life. That's why I want him to be handsome. He has the *visible* attributes when I will be dead. I commission him to live in my stead, my heir apparent. The beloved doesn't love me, he 'reproduces' me. But in this way I sterilize him, I cut him off from his own destiny.

You see it's not so much in terms of sexuality that I explain the faggot, but in direct terms of death....

As for the appearance, at certain moments, of pederasty in the life of a normal man, it's provoked by the sudden (or slow) collapse of the life force. A fatigue, a fear to live: a *sudden refusal of the responsibility* to live.

Honourable senators, Genet contradicts the notion of the homosexual lifestyle as gay. He says it is a death style, in very poignant words. I was very informed of Genet; he was a great icon, but today many have forgotten who Genet was, and some of the younger generation do not seem to know him, but in his day he was at the top of the playwrights.

There is another playwright. I was once in a Tennessee Williams phase and read *A Streetcar Named Desire*, *The Milk Train Doesn't Stop Here Anymore* and so forth. I want to cite Tennessee Williams from his 1970 play entitled *Confessional*. This play deals with homosexuality. The characters are a young man, a boy and so on. They do not seem to have names, per se. About certain homosexual practices, this is what Tennessee Williams wrote in his play. Young Man said:

There's a coarseness, a deadening coarseness, in the experience of most homosexuals. The experiences are quick, and hard, and brutal, and the pattern of them is practically unchanging. Their act of love is like the jabbing of a hypodermic needle to which they're addicted but which is more and more empty of real interest and surprise.

Honourable senators, there was a period in my life when many of my friends were in the theatre. I knew many playwrights and authors. We should look at these insights and try to understand what they mean. It is important to spend some time in life inquiring into what things mean. I have counted among my dearest friends numerous homosexual people. There is one to whom I would almost like to pay tribute. He died of AIDS, but he was one of my strongest supporters when I ran in Rosedale, and his death was a great loss.

Honourable senators, today I am letting homosexual persons speak. I shall now turn to the debate in this country among homosexual people themselves on the question of marriage and the court challenges that are moving ahead. Interestingly, no information has been put before us in this regard. We have never had a debate on this. Nothing has ever been put before us about the needs or the wants of homosexual persons in this country in respect of marriage. We know what the activists say, but we do not know what the ordinary people out there say. I want to tell honourable senators that most of these people go about their lives on a daily basis in very ordinary ways without much concern for some of these issues, and we forget that quite often.

I thought I would record some of the debate in the country on this question. I would first like to quote an article from *Xtra West*, the western version of a major homosexual newspaper, which sometimes claims to be the voice of the homosexual community.

In the September 16, 2001 issue of *Xtra West*, in an article entitled "No, no, no to marriage rights," Managing Editor Gareth Kirby wrote:

I hope they lose the legal fight for marriage equality rights.

There! I said it, and I'm glad I got it off my chest.

I hope, I profoundly hope, that gays and lesbians are never allowed to marry in Canada in the same way that straights can marry. I don't want to have even the option of doing that in my life. I don't want you to have the option of doing it in your life. And I don't want those couples who are taking the issue to the Supreme Court of Canada to win their case and have that option.

Not that they aren't good people. Not that I don't admire their spunk, their willingness to stand up for what they believe in. But I think their argument is wrong, contrary to what our movement has always been about, and will cause permanent damage to gay culture.

In the last year, this paper has repeatedly brought you arguments on both sides of the issue of queer marriage. In the last couple of issues, local queers — including lesbian icon and author Jane Rule — have spoken up clearly in opposition to a legal fight for queer marriage....

And that, dearest readers, is the main reason why I hope Egale and the queer litigants lose the court case: it boils down to culture.

In our culture, we haven't created the same hierarchy as has heterosexual culture. We know that love has many faces, and names, ages, places to..., positions to... and so on.

We know that a 30-year relationship is no better, no better, than a nine-week, or nine-minute, fling — it's different, but not better. Both have value. We know that the instant intimacy involved in that perfect 20-minute blowjob in Stanley Park can be a profoundly beautiful thing. We know a two-year relationship where people live apart is as beautiful, absolutely as beautiful, as a 30-year relationship where people live together. We know that the people involved in an open relationship can love each other as deeply as the people in a closed relationship.

We know that sometimes it's best for a relationship to end, that it's a terrible shame to throw away the love we invested in that lover, and that ex-lovers can make the best "sisters." We know that you can become closer to your best friend than your 30-year lover, telling that friend things you'd never tell your life partner.

All these things are part of the spectrum of love. And love, in gay culture, is a spectrum, not a hierarchy. That's our culture.

In much of straight culture, love is stuck in a hierarchy. The ceremony, the piece of paper, the government recognition, the tax benefits, the high cost of exit — all these are intended to create an aura around marriage that suggests it's better than the alternatives.

Marriage belongs to heterosexual culture and we should respect that. It's a ceremony tying a woman and a man together (though I would argue that marriage inherently puts the woman in a subservient position).

Not that marriage works, of course. It is a morally bankrupt institution...

Valuing honesty and honouring lust, we almost always open up our relationships to sex with other people after a few years. A recent federally funded health study of Vancouver gay men found that only two percent were in long-term relationships.

• (1530)

That is the number that is used quite often — 2 per cent or 1 per cent in long-term relationships.

A similar study of straights would, no doubt, have found some 80 percent or more were in long-term relationships....

Queers form loving relationships, that's for sure. But they're not the same as the marriage relationships that so many straights form. We should celebrate that instead of trying to pretend that we're just like them.

Instead of demanding that the courts and government lock us into the same straight-jacket that so many straights are in, we would do better to notice that so very many straights are learning from our culture, are rejecting and leaving marriage....

The lawyers and politicians in our community have run amuck on this one. They need reigning in. I, for one, will not donate a single penny to any fight for marriage recognition. The provincial NDP government's support of gay marriage won't play a role in helping me to decide who to vote for in the upcoming election. And I plead with the nation's politicians and justices to turn away from these people. They don't represent the reality of what our relationships are about. And they're out of touch with what our movement is about at its heart — freedom, not equality. Building a better world, not settling for equal treatment in the same world. Loving relationships, not hierarchy.

Honourable senators, that was the managing editor, Mr. Gareth Kirby speaking.

On April 5, 2001, in the newspaper *Xtra*, Tom Yeung wrote an article about Jane Rule. Jane Rule is another icon in Canada. The article was called "Lawlessness as lifestyle: Icon Jane Rule refuses to apply for survivor benefits." Tom Yeung wrote about her article in the spring edition of *BC Bookworld*, headlined "The heterosexual cage of coupledness." He quoted Jane Rule describing the pursuit of marriage and common-law rights as "the heterosexual cage of coupledness." Yeung quoted Jane Rule saying:

Over the years when we have been left to live lawless, a great many of us have learned to take responsibility for ourselves and each other, for richer or poorer, in sickness and health, not bound by the marriage service or model but singularities and groupings of our own invention....

To be forced back into the heterosexual cage of coupledness is not a step forward but a step back into state-imposed definitions of relationship. With all that we have learned, we should be helping our heterosexual brothers and sisters out of their state-defined prisons, not volunteering to join them there.

Yeung continued:

Rule's column also criticized activists — like Egale Canada and British Columbia MP Svend Robinson — for championing the marriage fight.

Yeung quoted Rule again saying that:

"I really think when organizations and public people like Svend get into it they're seen as leaders and I think they're influential," says Rule. "If they say it's important, I think people who are uncertain, or haven't thought a lot about it, or haven't lived long enough to know, pay more attention than they should."

Jane Rule is the author of *Desert Of The Heart*, which was made into a Hollywood movie, and *The Young In One Another's Arms* and *Against The Season*, and was a groundbreaking writer on lesbian issues back in the 1960s and 1970s.

Finally, in this round of my speech, honourable senators, I want to cite another article, from the September 6, 2001, edition of the newspaper *Xtra*.

The Hon. the Speaker pro tempore: I am sorry, Honourable Senator Cools, but the time has expired.

Senator Cools: May I have leave to complete that thought, honourable senators?

The Hon. the Speaker pro tempore: Is leave granted?

An Hon. Senator: No.

Senator Cools: That is okay with me. I was expecting it, and I always see Senator Robichaud ready and so eager just to —

The Hon. the Speaker pro tempore: Are honourable senators ready for the question?

[Translation]

Hon. Fernand Robichaud: Honourable senators, I call a point of order. It contravenes the practices of this house to allude to another senator, particularly now, and impute false motives to him. I therefore ask the Honourable Senator Cools to withdraw her remarks.

[English]

Senator Cools: There is nothing false here, honourable senators. You can examine the record and frequently find Senator Robichaud doing things to me. As a matter of fact, I examined the record just last night and I found four instances in the last few weeks.

No, listen; I was raised by a Methodist mother. I apologize.

On motion of Senator Banks, debate adjourned.

CRIMINAL CODE

BILL TO AMEND—THIRD READING— MOTION IN AMENDMENT—VOTE DEFERRED

On the Order:

Resuming debate on the motion of the Honourable Senator Joyal, P.C., seconded by the Honourable Senator LaPierre, for the third reading of Bill C-250, to amend the Criminal Code (hate propaganda),

And on the motion in amendment of the Honourable Senator St. Germain, P.C., seconded by the Honourable Senator Stratton, that the bill be not now read a third time but that it be amended, on page 1, in clause 1, by replacing lines 8 and 9 with the following:

"by colour, race, religion, ethnic origin or sex."

Hon. Anne C. Cools: Honourable senators, I rise today to speak to Senator St. Germain's amendment.

Honourable senators, today in my remarks on Bill C-250, I thought I would take a different approach and share with senators some interesting statements from the record of the Senate committee proceedings on Bill C-250. I would like to begin by citing one witness who appeared before the committee. Her name is Dawn Stefanowicz. I will let the record speak for itself. She said:

Thank you for giving me this opportunity to speak. My name is Dawn Stefanowicz. I am married, with two children. I grew up in Toronto during the 1960s and 1970s with a homosexual father whom I deeply loved. My father and many of his partners have passed away from AIDS.

Honourable senators, I am reading from the proceedings of the Standing Senate Committee on Legal and Constitutional Affairs, Issue No. 4, page 4:45, for anyone who wants to look up the record. She continued:

I lived with my homosexual father in a highly sexualized environment. My mother and my two brothers and myself lived in this state. I was exposed to sexually inappropriate experiences from a young age, including pornography, drugs, alcohol and indecent sexual acts. I was exposed to under-age male recruitment, voyeurism, exhibitionism, sadomasochism, fetishism and group sex — for example,

my father with 12 men. I was exposed to sexually explicit language. When I was eight, two of my father's sexual partners committed suicide after my father betrayed them.

Honourable senators, I must tell you that this woman is a very gentle, nice and a pleasant person. This is rare testimony because she talks about her childhood and her life in this household. She is deeply sensitive.

Honourable senators must remember that in my lifetime I have counselled a lot of people. I have done a lot of work with families, patching up problems and so on.

Dawn Stefanowicz continued on page 4:46:

My life was typical of children in the GLBT subcultures. Such environments are not good for children. These experiences affected me deeply and robbed me of my innocence, my conscience, and the ability to exercise my voice. I could not express any opposition toward my homosexual father's lifestyle. None of us could.

I lived firsthand the secrecy, neglect, abandonment, manipulation, abuse and stress of growing up with a homosexual father whose sexual obsessions and imperative compulsions left my brothers and me unprotected.

• (1540)

Chairman and senators, stop Bill C-250. Bill C-250 will remove my right as a child who grew up in this situation to the freedom of speech and freedom of expression to state opposition to particular forms of sexual behaviours, sexual diversity and family diversity.

My concern is for this and future generations of children who are and will be exposed to GLBT sexual diversity and family diversity. All human beings are created equal, but not all sexual behaviours are equal. These kinds of sexual behaviours and lifestyles do not create healthy, safe and secure home environments for children. Should Bill C-250 pass, I would not be able to oppose the many dangerous, risky and unhealthy homosexual sexual practices like sodomy, oral-anal sex and sadomasochism and others, and their social consequences for society.

Should Bill C-250 pass, I fear I could be prosecuted for speaking about the damaging repercussions and severe ramifications of homosexual sexual practices. Therefore, I am opposed to Bill C-250.

Honourable senators she goes on and says, for example:

Bill C-250 will rule out any moral objections, bias and prejudice on the basis of sexual orientation. Under the guise of the undefined term "sexual orientation," this bill will protect persons who practise pansexuality from private and public criticism.

[Senator Cools]

That is interesting. She is saying that Bill C-250 will inhibit the expression of moral opinion on these matters. In other words, she is referring to any opinion which considers certain homosexual practices sinful or any opinion which says it is immoral or any opinion which says sometimes those behaviours, such as sodomy or rimming, are dangerous and unhealthy.

She continued:

Proponents of Bill C-250 will not define the term "sexual orientation," claiming that it has been used undefined for years in Canadian law, which it has. By not defining it, we open it to include any and all sexual orientations. Sexual orientation is fluid, evolving, a slippery slope, and includes diverse legal or illegal pansexual practices exercised privately and publicly. On the other hands, we are legitimizing harmful and dangerous sexual behaviours. Social recognition for GLBT is not a good enough reason to add sexual orientation to the genocide sections of the Criminal Code. This will not reduce hate crimes.

Interestingly, honourable senators, later on in the question and answer period, she said, at page 4:62:

I have absolutely no hatred of any gay, lesbian, bisexual, transgendered or transsexual person. I was raised to be very open-minded, to be very accepting and tolerant...

She continued to talk about her father. In another paragraph, she stated:

We will hear one perspective. It is a political perspective. It is a small group that will come together and organize. They are not speaking on behalf of the children and they are not speaking on behalf of all gays, lesbians and bisexual people.

This is subject matter that I have read very closely. Honourable senators will remember that I have done a lot of work with many homosexual people and that I have many dear friends who are homosexual.

I found the evidence of Dawn Stefanowicz very moving, to hear about how children grew up in those circumstances.

Honourable senators, I would now like to move an amendment. The amendment I wish to propose comes from my history of social work and my understanding of the damage that is done to human beings emotionally and psychologically and, quite often, the mistreatment that mental incompetence has invoked.

MOTION IN AMENDMENT

Hon. Anne C. Cools: Honourable senators, I should like to move, seconded by Senator St. Germain:

That the motion in amendment be amended by adding, before the words "ethnic origin", the words "mental or physical disability,".

Honourable senators, I have always been concerned with the condition of the disabled and the mental ill. I understood, for example, that during World War II there were many attempts in Hitler's Germany to extinguish people who were seen to be either physically defective or mentally defective, even unto Hitler's plan to breed spectacular Germanic women to produce the perfect or superior race.

The Hon. the Speaker *pro tempore*: Are honourable senators ready for the question?

Hon. Lowell Murray: As honourable senators know, I have a motion on the Order Paper related in a procedural way to this bill. I will speak to that motion when it is called. The subamendment just moved by our friend Senator Cools, however, gives me an opportunity to intervene in the debate on the bill itself.

We have before us an amendment moved by Senator St. Germain some time ago, an amendment moved by an honourable senator who has been quite forthright in his view that he is opposed to the principle of the bill and would oppose it in any case.

That amendment has been followed by three subamendments in succession, all of them, I think it is fair to say, moved by honourable senators who have made clear their principled opposition to this bill. In each case, debate has ensued and a standing vote has been called. With the cooperation of the chief opposition whip, the standing vote has been deferred until the next day.

It must be clear to honourable senators where we are and where we are heading with this bill.

• (1550)

This process can go on for a very long time, and it would have the effect — I have no doubt the intended effect — of ensuring that the bill itself would not come back to the Senate for a final disposition in any reasonable time frame. When I speak of reasonable time frame, I allude, of course, to the possibility, perhaps even the likelihood, of a fairly early dissolution of this Parliament.

That, it seems to me, is the strategy with which we are faced. I will say more about that and about the remedy that I am proposing when the time comes for me to speak to my motion.

However, it needs to be said — and I here address myself to my former colleagues in the former and now extinct Progressive Conservative Party — that the strategy to which I refer can only work with their cooperation. In particular, the strategy requires that our friend, the chief opposition whip, defer votes from day to day as each subamendment is presented.

Senator Stratton has his own views of the bill. We all know that. He has made that clear. I respect him and his views. However, on a matter of this kind, which is a private member's

bill, or, indeed, in any kind of bill, the whip is not an autonomous actor in the parliamentary process. He is part of the opposition leadership. He is one of two people in this Senate who are authorized to defer votes. I simply say to my friends that they will have to take full responsibility for the disposition or otherwise of this proposed legislation.

As to the substance of the bill, I am the first to acknowledge that there are principled arguments that have been and can be made against hate propaganda legislation of any kind. Most of those arguments were thoroughly canvassed in the 1960s before the present provisions of the Criminal Code were brought into being. Those principled objections turn often on the question of freedom of speech and whether it is not better to put up with speech, no matter how hurtful or erroneous or bizarre, rather than abridge in any way our freedom of speech.

The principled argument against hate propaganda legislation also turned on the issue of whether the existing provisions of the Criminal Code were not adequate in themselves without a need for these, as they were then, new provisions.

As I say, these principled objections were canvassed pretty thoroughly in the 1960s, and I have some recollection of them. Parliament, in its wisdom, decided in 1970 that, on balance, there ought to be provision in the Criminal Code forbidding the preaching of genocide or of violence or of hatred against people on the basis of their colour, their race, their religion or their ethnic origin. The principled arguments have been settled. We have provisions in the Criminal Code that prohibit hate propaganda against the groups I have mentioned.

The question that is before us is whether there is any valid reason for not including sexual orientation in that same law. I do no valid reason for not including it. We are talking about homosexuals. We are not talking about the crimes of pedophilia or polygamy or bestiality or whatever. We are talking about homosexuals. We know who we are talking about. Homosexuals were subjected to the most vicious persecution for centuries.

I thought one of the more telling moments in the debate on second reading of this bill was when two of our colleagues, who have more personal and direct connection with the memory of the horrors of the Holocaust, rose to support this bill, one of them recalling to our minds that homosexuals had been singled out by the Nazis for extermination.

The question that occurs to me is not whether we should include protection for people on the basis of sexual orientation in this law; the question that occurs to me is why we have taken so long to get around to it.

Honourable senators, when the time comes, I will place on the record some of the legislative history of this bill, but I want to take up something that Senator Cools said before she moved her subamendment when she was reading into the record some of the comments of one of the witnesses before the committee who alleged that no longer would she be able to speak out as to the immorality of certain sexual practices.

Let me say, as one who has received, as I am sure you all have, numerous communications on the subject of this bill, that I find it very sad and very troubling to have received e-mails, one in particular that I can think of, an identical e-mail sent to me by literally thousands of people, alleging that if this bill were passed, the Bible would be banned; mothers and fathers would be thrown in jail for counselling their children; and that homosexual acts were immoral or unhealthy or dangerous.

Honourable senators, it is sad that these good people — believers, as many of us are; practising Christians, as many of us try to be — have been misled and been led to believe this stuff. You have only to read and look at the record of these laws in the Criminal Code, since they have been there for 35 years, to get answers. Even the more measured statements of some of the religious leaders, and I include the Roman Catholic bishops, strike me as being quite without justification. They express concerns about freedom of religion.

Honourable senators, there is nothing in this bill, there is nothing in the law that it amends, and there is nothing in the case law or in the jurisprudence of 35 years on this law that substantiates, much less justifies, those apprehensions. They are simply unjustified.

You can read former Chief Justice Brian Dickson on the question of the standard of proof that will be required for a successful prosecution, the high and very rigorous standard of proof as to intent, as to what it means to promote, to foment hatred, and then the definition that he uses of hatred. This is a very high standard of proof, and it is little wonder that only four or six prosecutions have been launched under this law in all those years, and that only one or two of them were successful.

• (1600)

Then there are the defences that are written into the bill, that people have mentioned, including the defence of preaching your religious convictions on these matters and the fact that, for some of these prosecutions, the fiat of the Attorney General is required. There is no justification, no substantiation for the kinds of concerns that have been expressed in the e-mails that we have received and in the kind of alarmist statements that have been made, but made nevertheless by the witness quoted by Senator Cools in her speech.

We will have to make a choice about this bill. I say this to the members of the official opposition. I know where Mr. Harper, the leader of their party stands. He is against it.

Senator St. Germain: How do you know?

Senator Murray: He led every one of his members into the House of Commons to vote against it at third reading. That is where he stands.

Hon. Gerry St. Germain: Senator Murray is misrepresenting the facts, and he has done this before.

[Senator Murray]

Senator Murray: I beg your pardon. At third reading of this bill in the House of Commons, Mr. Harper led, I believe, every member of his party who was present in there to vote against it. He may have been joined by some Liberals, for all I know, and some Progressive Conservatives. The Leader of the Opposition voted against the bill. I am anticipating my next motion. The point is that they got to vote. That is all I am asking for here. I hope we will have an opportunity to vote, too, on this bill.

A choice has to be made. The party of which I speak has been quite consistent. In the 10 years that party has been in the House of Commons, they have never supported a single human rights initiative or a single initiative for minority rights.

I say to my friends that they can don that mantle if they want or they can follow the examples of previous leaders: Diefenbaker, Stanfield, Clark and Mulroney.

Senator Tkachuk: My leaders!

Senator Murray: Not one of them was ever found wanting when a human rights issue was before the House. With respect to this bill, senators can don the mantle of the Reform/Alliance, or they can be consistent with the position taken by Progressive Conservative leaders over the years. It is with some confidence that I leave that decision to you.

Some Hon. Senators: Hear, hear!

The Hon. the Speaker pro tempore: I regret to inform honourable senators that the time for Senator Murray's speech has expired.

Senator Cools: On a point of order, I should like to challenge what Senator Murray said about previous Progressive Conservative leaders.

Some Hon. Senators: Order!

Senator Cools: In my reading of the development of this —

Hon. Serge Joyal: Senator Murray's time has expired. If a question is to be put to Senator Murray, he must stand and seek leave from the house.

Senator St. Germain: Senator Cools is on a point of order.

Senator Cools: I rise on a point of order. Senator Murray invoked the name of John Diefenbaker. My understanding is that, back in the 1960s and early 1970s when these sections of the Criminal Code were created, the Right Honourable John Diefenbaker opposed them.

Some Hon. Senators: Oh, oh!

Senator Cools: Oh, stop hissing!

The Hon. the Speaker pro tempore: Are senators ready for the question?

Some Hon. Senators: Question!

The Hon. the Speaker *pro tempore*: It is moved by the Honourable Senator Cools, seconded by the Honourable Senator Tkachuk:

That the motion in amendment be amended by adding before the words "ethnic origin" the words "mental or physical disability,"

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yea.

Some Hon. Senators: Nay.

The Hon. the Speaker *pro tempore*: Those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore*: Those opposed to the motion will please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker *pro tempore*: In my opinion, the nays have it.

And two honourable senators having risen:

The Hon. the Speaker *pro tempore*: Honourable senators, how long shall the bells ring?

Hon. Terry Stratton: Honourable senators, according to rules 67(1), (2) and (3), in this particular instance I should like to defer the vote to the next sitting of the Senate.

Hon. Rose-Marie Losier-Cool: According to rule 67(3), when the next sitting of the Senate is a Friday, we defer the vote to the next sitting day, which would be next week.

The Hon. the Speaker *pro tempore*: The vote is deferred to the next sitting after Friday.

NATIONAL SECURITY AND DEFENCE

MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF NEED FOR NATIONAL SECURITY POLICY—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Kenny, seconded by the Honourable Senator Fairbairn, P.C.:

That, notwithstanding the Order of the Senate adopted on February 13, 2004, the date for the final report by the Standing Senate Committee on National Security and

Defence on the need for a national security policy for Canada be extended from June 30, 2004, to September 30, 2005.—(*Honourable Senator Lynch-Staunton*).

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I have spoken with Senator Kenny. My remarks on Order No. 73 will also apply to Senator Day's motion of yesterday. I know Senator Chaput has a similar motion. Committees are finding it difficult to set schedules because of the uncertainty of the election. It is as simple as that.

Since September and since we have been back, we have been working under the threat of an election and being given deadlines to meet because of the possibility of prorogation or dissolution that, so far, has not taken place. We came back after Easter and the rumour mill started again to the effect that an election will not be called until the fall. As soon as we relaxed, the rumour mill started again. An election may be called in the next two weeks. We are all being conditioned by the possibility of an election date being called at any time, and it is affecting the work of all of us as parliamentarians. This is absolutely wrong. If nothing else, it argues in favour of fixed terms. That was my only point.

There is another argument that, if we had fixed terms, if we knew the length of the mandate and that could not be tampered with, then we could fix our schedules accordingly. I do hope that the next government, whoever it may be, will learn from this and introduce a motion or a bill to that effect so that we can debate issue thoroughly.

I did not have any objections. I wanted to find out the purpose for this motion and to try to plead again for a more rational approach to our work. To do our best work, we should know the length of the mandate of any government.

[*Translation*]

Hon. Fernand Robichaud: Honourable senators, I want to comment on what the Honourable Senator Lynch-Staunton said.

I have difficulty understanding that an extension to September 30, 2005, could lead to more permanence. An extension to September 30, 2005, would mean exceeding the year for which the Standing Senate Committee on Internal Economy, Budgets and Administration normally allocates budgets.

If the date of March 31, 2005, had been upheld, I would have undoubtedly been more willing to grant this extension. The Leader of the Opposition normally has serious questions about such things. However, unless I can be convinced that there is no cause for concern, should this motion not be amended to read instead "to March 31, 2005"? This would take us to the end of the year for which the Standing Senate Committee on Internal Economy, Budgets and Administration normally allocates budgets.

Does the honourable senator wish to comment on my proposal?

• (1610)

Senator Lynch-Staunton: There is no need for me to amend the motion. It is not mine. All I want to do is to raise the issue. I agree that it is completely ridiculous to ask for an extension until the end of September, but I accept the reasoning that led to this request. Unfortunately, the author of the motion is not here; perhaps we could suspend the motion and, when he returns, ask him if he would agree to a deadline of the end of the fiscal year.

Senator Robichaud: I would like to move that the debate be suspended until the next sitting of the Senate.

On motion of Senator Robichaud, debate adjourned until the next sitting.

[English]

STUDY OF SUBCOMMITTEE ON VETERANS AFFAIRS
AUTHORIZED TO EXTEND DATE OF FINAL REPORT
ON VETERANS' SERVICES AND BENEFITS,
COMMEMORATIVE ACTIVITIES AND CHARTER

On the Order:

Resuming debate on the motion of the Honourable Senator Meighen, seconded by the Honourable Senator Biron:

That, notwithstanding the Order of the Senate adopted on February 26, 2004, the date for the final report by the Standing Senate Committee on National Security and Defence on Veterans' Services and Benefits, Commemorative Activities and Charter be extended from June 30, 2004, to September 30, 2005.—(*Honourable Senator Lynch-Staunton*).

Hon. Joseph A. Day: Honourable senators, on behalf of the Chair of the Subcommittee on Veterans Affairs of the Standing Senate Committee on National Security and Defence, I am prepared to accept the date of March 31, 2005, as suggested by the Honourable Senator Robichaud.

With regard to the item that we have just adjourned, I notice that Senator Forrestall, who is deputy Chairman of that committee, is here and may be able to give consent also so that we can get this done.

Hon. J. Michael Forrestall: Honourable senators, the comments and observations of Senator Robichaud are very appropriate. The chair of the committee was been called away suddenly to meet with Minister McLellan on closely related issues. He asked me to accommodate as nearly as I could the wishes of the chamber in this regard. If there is general agreement, we would be pleased to accept the date that has been suggested by Senator Robichaud.

Senator Day: I believe that Senator Forrestall is asking that we revert to Order No. 73, debate on which has just been adjourned. Could we deal with Order No. 75 and then revert to Order No. 73?

The Hon. the Speaker pro tempore: Is it agreed that Order No. 75, as amended, be adopted?

Motion agreed to, as amended.

[Translation]

COMMITTEE AUTHORIZED TO EXTEND
DATE OF FINAL REPORT ON STUDY OF
NEED FOR NATIONAL SECURITY POLICY

Leave having been given to revert to Motion No. 73 on the Order Paper:

On the Order:

Resuming debate on the motion of the Honourable Senator Kenny, seconded by the Honourable Senator Fairbairn P.C.,

That, notwithstanding the Order of the Senate adopted on February 13, 2004, the date for the final report by the Standing Senate Committee on National Security and Defence on the need for a national security policy for Canada be extended from June 30, 2004, to September 30, 2005.—(*Honourable Senator Lynch-Staunton*).

Hon. Fernand Robichaud: Honourable senators, I give my consent. I had asked for adjournment of the motion so that we could revert to Motion No. 73, but in view of Senator Forrestall's comments about the date I had mentioned, I have no further objection to the question being put.

[English]

The Hon. the Speaker pro tempore: Is it agreed that Order No. 73, as amended, be adopted?

Hon. Senators: Agreed.

Motion agreed to, as amended.

THE SENATE

CRIMINAL CODE—MOTION TO DISPOSE
OF BILL C-250—DEBATE ADJOURNED

Hon. Lowell Murray, pursuant to notice of April 21, 2004, moved:

That it be an Order of the Senate that on the first sitting day following the adoption of this motion, at 3:00 p.m., the Speaker shall interrupt any proceedings then underway; and all questions necessary to dispose of third reading of Bill C-250, to amend the Criminal Code (hate propaganda), shall be put forthwith without further adjournment, debate or amendment; and that any vote to dispose of Bill C-250 shall not be deferred; and

That, if a standing vote is requested, the bells to call in the Senators be sounded for fifteen minutes, after which the Senate shall proceed to take each vote successively as required without the further ringing of the bells.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I rise on a point of order on the propriety of dealing with this motion at this stage because it is in conflict with the house order just passed stating that we agreed to hold the vote on the subamendment to Bill C-250 on Tuesday at 5:30 p.m. This motion calls for a similar vote to take place "the first sitting day following the adoption of this motion, at 3:00 p.m." There is a possibility the motion could be adopted today, tomorrow or Monday. If it were, we would have two orders of the Senate to have a vote on the same item.

Since a decision has been already been taken on the vote, I suggest that any attempt to change the timing of that vote certainly cannot be done by this motion. Therefore, I would ask Her Honour to rule this out of order for the time being.

Senator Murray: Honourable senators, we have been through this kind of exercise before, not necessarily on time allocation motions but on motions where it was argued that one might have the effect of superseding the other. That remains to be seen. I have given notice of a motion that is perfectly in order. I suppose, by the same token, an honourable senator could have risen and suggested that a motion to defer the vote on the subamendment was out of order because it would conflict with the motion I already had on the Order Paper.

This really makes no sense. I have moved a motion of which I gave notice yesterday. It is in good form and properly before the Senate. The point the honourable senator has made is largely a debating point, it seems to me, not a point of order. In my opinion, the debate should be allowed to go forward.

[Translation]

• (1620)

Hon. Fernand Robichaud: Honourable senators, I lean strongly toward Senator Murray's position; he presented the motion in accordance with the *Rules of the Senate* since, after one day's notice, the motion is before this chamber, as the Rules require.

I do not see how a point of order could prevent us from debating the motion at this time.

[English]

Hon. Anne C. Cools: Honourable senators, Senator John Lynch-Staunton is absolutely correct — that is, in the previous proceeding on Bill C-250, the vote was deferred. That is now an order of the Senate. I am sure that Her Honour knows very well it is an order of the Senate, because on Tuesday, in accordance with the order, the Speaker or the Speaker *pro tempore* will rise and say that it is an order of the Senate and that the bells must ring so that a vote can go ahead.

Therefore, what Senators Murray and Robichaud are both arguing is a most interesting novelty, and a little amusing, actually, because what they are saying, somehow or other, is that an order of the Senate can simply be overcome by a particular

motion. The fact of the matter is that that order is in position. Any attempt to repeal that order will have to follow the *Rules of the Senate*, which have to do with repealing and rescission by the Senate, which means it would have to be done with notice. That order cannot be repealed simply by moving on to this.

As a matter of fact, I would argue that for the Senate to move to debate on Senator Murray's motion is extremely out of order, and extremely irregular, and in point of fact undermining of the previous order. An order of the Senate is a very serious matter, and not so easily overcome. Senator Murray should know a lot better than that, because he was a leader here in this place. I am always surprised when senators do these kinds of things. The previous order is the order that the Senate is right now under command to obey. The Senate has ordered it. Therefore, that order has to be executed.

[Translation]

Senator Robichaud: Honourable senators, if we adopted the current strategy, it would mean that, when a senator properly presents a motion, in accordance with the *Rules of the Senate*, we could never hear the motion now before us.

The strategy of deferring the vote can continue as long as there is always someone to move an amendment, who has not already done so on another amendment. This is one way of preventing an honourable senator from presenting a motion in the Senate.

Honourable senators, a motion presented in the Senate is not automatically adopted. The Senate must first adopt the motion. It is only then that the Senate indicates its desire to proceed in such and such a fashion. This does not mean that the process is automatic.

It means that there will be a debate on the motion and that the Senate will reach a decision that it will respect, while respecting other decisions that have been made. That is why I believe the debate on Senator Murray's motion should not be deferred.

[English]

Hon. Terry Stratton: Honourable senators, if I may, just briefly, on the question of not being able to speak, Senator Murray just spoke during the subamendment. There is opportunity to speak in certain instances throughout this. If we are going to speak on the debate as to Senator Murray's motion, that is one thing, but to reach a conclusion with respect to it is another entirely different item, and there is a conflict.

I should like to say something to Senator Murray regarding my position with respect to this bill. It would be interesting to note — and I am sure he would agree with me — that Prime Minister Diefenbaker and Prime Minister Mulroney would have had the intestinal fortitude to bring forward a government bill to deal with this issue. That should be the criticism of this chamber on that side. Honourable senators across should not address us as being the enemy. They are the enemy. They are the ones who lack the courage and intestinal fortitude to deal with this —

An Hon. Senator: Order!

The Hon. the Speaker *pro tempore*: I am sorry, but it is not a point of order.

Senator St. Germain: And you should be sitting on that side.

Hon. Serge Joyal: Honourable senators, I think the honourable leader has raised an important question, but I would submit an answer. If honourable senators read carefully rule 67(1) — and I would ask honourable senators to read it, if they have it at hand. Rule 67(1) reads as follows:

After a standing vote has been requested, pursuant to rule 65(3), on a motion which is debatable in accordance with rule 62(1), either Whip may request the standing vote be deferred as provided below.

Honourable senators, it says “may request.” That is what happened. The honourable whip has requested, and the vote has been deferred. Does that mean it prevents the house, which is the master of its own proceedings, to decide differently later on? That is what is suggested as being the literal interpretation — that once the request has been granted, it is over forever, as long as the house has not disposed of the deferred vote. That is the legal nature of the request of the honourable whip of the official opposition.

My contention is that the standing order of the house gives the opportunity to either of the votes to defer, but the house is still master, later on, of its own proceedings and can decide to hold a vote differently if the house so wishes. I contend, therefore, that Senator Murray’s motion is totally in order, because it offers the opportunity to this house to decide differently. Of course, if the house decides to the same effect as what has been requested by the whip, then the house acts accordingly; however, if the house decides differently, this house remains master of its own proceedings as long as the proceedings go.

Hence, Your Honour, it my humble argument is that Senator Murray’s motion is in order.

Senator Lynch-Staunton: You cannot do through the back door what should be done through the front door.

• (1630)

This house has agreed that there would be a vote on a subamendment at 5:30 p.m. on Tuesday. As the government whip, Senator Losier-Cool agreed — and we supported her — that the vote would take place at 5:30 p.m. on Tuesday.

Can I have that confirmed by the Table? She said that because Friday is Friday, it will be Tuesday.

The Hon. the Speaker *pro tempore*: I said the next sitting after Friday.

Senator Lynch-Staunton: I am saying that Senator Losier-Cool said it would be Tuesday. It is important.

I am not discussing the content of the motion, except to point out that it asks us to vote on all questions related to Bill C-250, not just on the subamendment, but on all questions. That is a totally different vote from the one that we have agreed will take place at 5:30 p.m. on Tuesday.

I come back to the basic argument, honourable senators. We have a house order. If we feel that that should be taken at a different time and day, we have to revert to the house order, agree to debate it, and then change it to whatever we feel would be an improvement. However, that is not in front of us.

What we have in front of us is a motion from a member of this place saying, “Let us get rid of everything to do with Bill C-250, as soon as my motion is passed, at the next sitting at 3 p.m.” That is in violation of a house order. It is premature to discuss it.

I am not discussing its propriety or whether this motion is in order or not. I shall do that at the appropriate time. I am saying now that it is premature, that it is in conflict with a house order and that, as such, it should be ruled out of order, for those reasons.

Senator Cools: Honourable senators, I should like to say that the term “master of its proceedings” does not mean that the Senate must not abide by its own rules.

It is interesting that Senator Joyal used the words “standing order,” because that is precisely what it is. It is a standing order, as distinct from rules. At the turn of the century, standing orders replaced rules. What a standing order does is make orders that stand over time.

Honourable senators, what I am trying to say to is that Senator Murray’s motion can go ahead. My understanding is that no honourable senator is questioning whether or not it was given proper time and proper notice. What Senator Lynch-Staunton is saying is that it must wait to move ahead, of disposition and resolution, until the vote takes place on Tuesday.

I should like to draw the attention of honourable senators to rule 63(2). Perhaps we can look at that with some clarity.

Honourable senators must understand that the rules and the system of the Senate are constructed in such a way as to protect against a motion being passed or an order being created at two o’clock and another group of senators coming at four o’clock making another order. The rules are created, in other words, on the premise that the Senate does not tolerate uncertainty or fickleness easily. Honourable senators, the entire system is constructed in such a way as to ensure that an order that has been passed cannot be changed by having a group of senators run outside and bring in another group of senators to change that order around.

Rule 63(2) speaks precisely to what the situation is, which is what Senator Lynch-Staunton has raised. Rule 63(2) states:

An order, resolution, or other decision of the Senate may be rescinded on five days' notice if at least two-thirds of the Senators present vote in favour of its rescission.

Honourable senators, what is going on here is very strange. What is being asked by Senators Murray and Robichaud is for the Speaker — and I caution Her Honour to understand exactly what is going on here — to overcome the order that was put down just a few minutes ago.

I would submit to you, Your Honour, and to honourable senators, that if the Speaker by her ruling could overrule this order of the Senate, then she could overrule any other order of the Senate.

Based on what Senator Murray is saying, with regard to the ethics bill with which we dealt a few weeks ago, for example, all someone had to do was introduce another motion after the first question had gone down. The Senate is resistant. The nature of the common law is resistant to this kind of frivolity.

I caution that the Speaker of the Senate does not have the power to declare that the order that was passed a few minutes ago should be set aside. That is what Your Honour is being asked to do.

The Hon. the Speaker *pro tempore*: If there are no further comments, honourable senators, I will leave the Chair for a few moments to discuss this matter with the Table. We shall resume at the call of the Chair.

The sitting of the Senate was suspended.

• (1650)

The sitting of the Senate was resumed.

The Hon. the Speaker *pro tempore*: Honourable senators, the point of order raised by the Leader of the Opposition is that the motion of Senator Murray is in a possible conflict with the previous order of the Senate setting the vote for the subamendment on the motion in amendment respecting the third reading of Bill C-250.

This question is hypothetical. There is no conflict as of yet. This motion has not been adopted, nor has it been put to a vote.

I might also point out that, if there is a decision taken today on the motion of Senator Murray, it could be deferred, which would eliminate the anticipated conflict.

All of this is to say that, at the moment, there is no valid point of order.

Senator Murray will now speak to his motion.

Senator Murray: Honourable senators, I shall be quite brief. I do acknowledge that, in speaking without many notes, I did get

ahead of myself during the debate on the subamendment and deployed some of the arguments that I might otherwise have deployed now. I will not repeat myself.

I will, however, begin by placing on the record something of the legislative history of Bill C-250, because I believe it is relevant to my motion, the purpose of which is to ensure that honourable senators will have the opportunity to vote and make a final disposition of Bill C-250.

I did not know this until quite recently, but I saw in a library document which indicated that this bill first appeared as long ago as June of 1990 as Bill C-326, a private member's bill brought forward by Mr. Svend Robinson, MP. More recently, it was introduced as Bill C-415 in the First Session of the Thirty-seventh Parliament. It was presented to the House of Commons on November 22, 2001, received second reading on May 29, 2002, and was referred to the Justice and Human Rights Committee. There it died on the Order Paper of that committee with prorogation of the First Session of the Thirty-seventh Parliament.

It came back again, this time as Bill C-250, in the Second Session of the Thirty-seventh Parliament. It was presented in the Commons on October 24, 2002, and, after second reading, went to the Justice and Human Rights Committee. That committee held, by my count, four hearings, at which a number of witnesses in support of or opposed to the bill were heard. The committee reported on May 27, 2003. That was followed by a debate at report stage and third reading, by my notes, on September 17, 2003. I have in front of me the divisions of which there were at least two. I have the names of the members who voted pro and con, but that is only relevant to a spontaneous and unrehearsed exchange Senator St. Germain and I had earlier. I can let him have the details, if he is interested; I will not take time to place them on the record now.

Bill C-250, during the Second Session of the Thirty-seventh Parliament, came to the Senate on September 16, 2003, and the debate on second reading lasted the eight sitting days between September 24 and November 5, 2003. The bill then died on the Order Paper with prorogation of the Second Session of the Thirty-seventh Parliament.

Bill C-250 was reinstated in the present session which began on February 2, 2004. It came to the Senate and was spoken to in the debate on second reading on nine occasions between February 5 and February 20, 2004. It received second reading on that date and was referred to the Standing Senate Committee on Legal and Constitutional Affairs. That committee, by my count, held five meetings, at which a number of witnesses — whose names I will not read into the record — appeared in support of or opposed to the bill. The committee reported the bill without amendment on March 25. Debate began on March 26, and here we are.

On the one hand there is no point imputing motives. On the other hand, there is no point being unrealistic. We have a situation in which we have serial subamendments with deferrals of votes. In my opinion, it is realistic to say that, if this continues, and it could, it is perhaps intended to prevent the bill from ever coming to a final vote here in the Senate.

Honourable senators, the purpose of this motion is to ensure that there is some finality to this. As I have indicated, various individuals and various parties voted pro and con this bill when it was in the House of Commons. They were able to vote according to their principles, and I am simply asking, by this motion, that we guarantee, so far as we can, that honourable senators, whether they are opposed to or in support of this bill, have the same opportunity to vote according to their principles.

Senator Joyal: I move that the question be put.

Senator Cools: We cannot speak to the motion again. That is ridiculous.

Senator Stratton: Who is limiting debate now?

Senator Lynch-Staunton: You just told us we cannot have a vote.

Senator Cools: This is a debating chamber and some senators are on their feet.

Senator Joyal: I was recognized.

The Hon. the Speaker pro tempore: Senator Joyal moved the previous question, so he has the right to speak first.

Senator Cools: Your Honour, we were on our feet.

Senator Stratton: I rise on a point of order. Her Honour read her ruling and stated quite clearly that this chamber could debate it but that it could not come to a conclusion with respect to this motion.

Senator Cools: That is right. That is Her Honour's ruling.

Senator Stratton: That was the ruling read to us.

The Hon. the Speaker pro tempore: The motion moved by Senator Joyal is debatable.

• (1700)

The Hon. the Speaker pro tempore: It was moved by the Honourable Senator Joyal, seconded by the Honourable Senator Maheu, that the question be now put.

Senator Cools: Point of order.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yea.

The Hon. the Speaker pro tempore: Are senators ready for the question?

Senator Stratton: Is it not debatable?

Senator Robichaud: Yes, it is.

Senator Stratton: Is it also deferrable?

The Hon. the Speaker pro tempore: It can be adjourned.

Senator Stratton: Can the question be deferred?

Senator Robichaud: Only a vote can be deferred.

Senator Stratton: It cannot be adjourned. Can the question being put be deferred?

The Hon. the Speaker pro tempore: A non-debatable motion cannot be —

An Hon. Senator: Deferred.

Senator Stratton: Honourable senators, Her Honour clearly stated in her ruling that as long as there was no conclusion reached with respect to the debate — in other words, the adoption of the motion — debate could continue. That is what we have done. We have debated the motion. However, we cannot adopt the motion because adopting the motion puts us in conflict with a motion already adopted — in other words, a vote on Tuesday at 5:30 p.m.

Senator Murray: Honourable senators, I do not know if that was a point of order; I presume it was. The Speaker or somebody can reread the decision she made.

As I understand it, what she said was that Senator's Lynch-Staunton's original point of order was hypothetical, that the debate could continue and that the vote on it could be deferred. My honourable friend interprets that to mean that we could not conclude. Someone can reread the decision, but as I heard it, it was that the vote on the motion could be deferred. I think that is probably the case with the motion that Senator Joyal has just moved that the question be now put. In other words, the motion that he has made is debatable. All senators can speak on it. I could speak on it myself again. Everyone has a chance to speak on the motion, and the vote on that can be deferred, as I understand it.

We had this argument some time ago on a motion. I was wrong at the time, but I think I am right now. I was corrected. I think that a motion for a previous question can be deferred or adjourned, for that matter.

[Translation]

Senator Robichaud: Honourable senators, the motion before us is debatable. The debate can proceed, and the *Rules of the Senate* are clear on how it may proceed. The senators have a set period of time in which to speak.

There can be no amendment, or subamendment, to the Honourable Senator Murray's motion. This matter can be debated. There will, moreover, be a vote on it. Should the vote be negative, Senator Murray's motion would be immediately struck from the *Order Paper*.

[Senator Murray]

The procedure is clear. There can be debate, and each senator may express his or her views on the Honourable Senator Joyal's motion.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: No.

[English]

Senator Cools: Your Honour —

Some Hon. Senators: Order.

The Hon. the Speaker *pro tempore*: It was moved by the Honourable Senator Stratton, seconded by the Honourable Senator LeBreton, that further debate on the motion be adjourned to the next sitting of the Senate.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: No.

Some Hon. Senators: Yes.

Senator Cools: Your Honour, you are required to follow the rules of this place. I wanted to speak on Senator Murray's motion.

This is serious, folks. When you think you can win something, you know, senators, you can be magnanimous. You senators are not.

I was on my feet, ready to speak to Senator Murray's motion, which is an important motion and to which many of us want to speak, and you chose, Your Honour choose to hear Senator Joyal first. It was your duty to ask, "Are there any honourable senators wanting to speak to that motion?" You did not do that. That is the practice and the rule of this place. The Speaker of the Senate has a duty when any motion is put to look around and to ensure that those senators who wish to speak do so. You did not do that. You chose to do something that is contrary to the rules of this place and to the practices of this place. I have to tell you that I am quite scandalized.

The fact of the matter is that many of us here had a right to debate what Senator Murray had to say. I know that I was on my feet first because I saw Senator Joyal get up. You had a duty to call upon those of us who wish to speak. Your Honour, you just cannot deny senators their right to speak.

I have a right to speak on that particular motion. I would like to note this is not the first time that this has happened in this particular debate. When the motion was put by the Speaker in the Chair on the day that the bill was referred to committee, I was on my feet trying to speak at second reading. I was not allowed to speak at second reading, but I was too genteel to raise a question of privilege condemning the Speaker.

The fact of the matter is, Your Honour, you cannot put those motions until you have clarified the situation. It is not good enough to say, "Well, it does not really matter whether you speak on the first motion because you can speak on the second motion." In point of fact, the first motion —

Some Hon. Senators: Order.

Senator Cools: Oh, get off.

[Translation]

Senator Robichaud: Honourable senators, it must be clearly understood that, when you recognized Senator Joyal, he moved that the original question be now put to a vote.

This is not an impediment to anyone. Once we have addressed Senator Joyal's motion, if the decision is favourable, we will then debate the motion by the Honourable Senator Murray. The debate will continue, and no amendments to Senator Murray's motion will be allowed. The debate can, however, take place once we have dealt with this matter. Honourable senators will then have an opportunity to speak on the motion before us, and then on Senator Murray's motion.

[English]

Senator Cools: It is simply not good enough that Senator Robichaud can say it does not matter what happened at this particular moment because you can speak later.

The fact of the matter, Your Honour, is you do not have the power to deprive us of the right to speak. I wanted to speak to that main motion now. You simply cannot do this. This place is malfunctioning in very, very serious ways.

She is not even listening. I was on my feet, Your Honour.

Senator Stratton: I moved the adjournment of the debate.

The Hon. the Speaker *pro tempore*: It was moved by the Honourable Senator Stratton, seconded by the Honourable Senator LeBreton, that further debate on the motion be adjourned to the next sitting of the Senate.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker *pro tempore*: All those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore*: All those opposed to the motion will please say "nay."

Some Hon. Senators: Nay.

The Hon. The Speaker pro tempore: In my opinion, the “nays” have it.

And two honourable senators having risen:

Call in the senators. The bells will ring for one hour. Accordingly, the vote will take place at 6:10 p.m.

• (1810)

The sitting of the Senate was resumed.

The Hon. the Speaker pro tempore: The question is on the motion of the Honourable Senator Stratton, seconded by the Honourable Senator LeBreton, that further debate on the motion of Senator Joyal on the previous question be adjourned until the next sitting of the Senate.

Motion negated on the following division:

YEAS THE HONOURABLE SENATORS

Cools	Lynch-Staunton
Di Nino	St. Germain
Forrestall	Stratton
Keon	Tkachuk—8

NAYS THE HONOURABLE SENATORS

Atkins	Gauthier
Biron	Joyal
Christensen	Léger
Cook	Maheu
Corbin	Mahovlich
Day	Murray
Fairbairn	Robichaud
Finnerty	Rompkey—17
Furey	

ABSTENTIONS THE HONOURABLE SENATORS

Nil.

Senator Robichaud: Honourable senators, on a point of order, I wish to make a correction. When, on the point of order, I said that there would be a separate debate for the previous question and then for the main motion, this is not so. There is one debate on the motion, and if Senator Joyal's motion carries, then we go immediately to the main question.

I wanted the record straight so that senators would not misinterpret what I said, or interpret the way I said it and it was not right.

The Hon. the Speaker pro tempore: Accordingly, pursuant to rule 31, it is now after six o'clock. Do honourable senators wish that I do not see the clock?

Some Hon. Senators: We see the clock!

The Hon. the Speaker pro tempore: Accordingly, pursuant to rules 13(1) and (2), I shall leave the Chair until 8 p.m.

The sitting of the Senate was suspended.

• (2000)

The sitting of the Senate was resumed.

The Hon. the Speaker pro tempore: Resuming debate.

Senator Stratton: Honourable senators, I am pleased to rise to speak to Senator Joyal's motion that the previous question be now put.

This motion has the effect of preventing any amendments from being made to Senator Murray's singular closure motion and also prevents any other senator from speaking to that motion as the previous question forces an immediate vote on the item.

The previous question is not a motion that should be moved on a casual basis. Its use in the Senate has been infrequent, and for good reason. There have been only a few times in recent history that the previous question has been moved in the Senate. The most recent was on February 12 of this year in relation to Bill S-7, the electoral boundaries bill, which did not come to a vote because the Speaker eventually struck the bill. In 1999, the motion was defeated. Prior to that, this motion was tried in 1912, when it was defeated; and though the motion was put in 1904, there is no record of a vote being taken.

In light of these examples, it strikes me that honourable senators should be given an opportunity to reflect on the potential procedural quagmire that may now occur. Accordingly, I move that the Senate do now adjourn.

The Hon. the Speaker pro tempore: Honourable senators, it was moved by the Honourable Senator Stratton, seconded by the Honourable Senator Lynch-Staunton, that the Senate do now adjourn.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

[Translation]

Senator Robichaud: Is the motion for the Senate to adjourn or the debate to adjourn?

[English]

Senator Stratton: The motion is for the Senate to adjourn.

The Hon. the Speaker pro tempore: Will those honourable senators in favour of the motion please say “yea”?

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore*: Will those honourable senators opposed to the motion please say “nay”?

Some Hon. Senators: Nay.

The Hon. the Speaker *pro tempore*: In my opinion, the “nays” have it.

And two honourable senators having risen:

Senator Stratton: A one-hour bell.

The Hon. the Speaker *pro tempore*: Is there an agreement as to the length of the bell?

Senator Stratton: Bear with me. Let me suggest a 30-minute bell.

The Hon. the Speaker *pro tempore*: Is it agreed to have a 30-minute bell, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore*: The vote will take place at 8:35 p.m. Call in the senators.

• (2040)

Motion negated on the following division:

YEAS THE HONOURABLE SENATORS

Cools
Forrestall
Keon
Lynch-Staunton

St. Germain
Stratton
Tkachuk—7

NAYS THE HONOURABLE SENATORS

Atkins
Biron
Christensen
Cook
Corbin
Day
Fairbairn
Furey
Gauthier

Joyal
Léger
Maheu
Mahovlich
Murray
Ringuette
Robichaud
Rompkey—17

ABSTENTIONS THE HONOURABLE SENATORS

Nil

Some Hon. Senators: Question!

Senator Robichaud: Is that not the understanding?

The Hon. the Speaker *pro tempore*: The question is on the motion —

Senator Lynch-Staunton: I am sorry, honourable senators, am I missing something here? Are we putting the question tonight? What is happening here?

Senator Joyal's motion is to put the question. The question is to go to a vote. If that were accepted, then there would be no debate on the main motion, which means that the main motion comes up immediately for a vote. Is that correct or not?

For the last two days, we have been subjected to the most unusual procedural cleverness on a private member's bill, which I have ever seen. I am sure that, if I were to look in the records, I would see that it has never happened before. Senator Murray has, in effect, proposed a closure motion. If the principle of this closure motion is accepted, it means that any senator, at any time, on any item on the Order Paper, can get up and move that we vote on a motion at a certain time.

Senator Murray: A senator must give notice of a motion and have the motion brought forward.

Senator Lynch-Staunton: Exactly. One who has spoken against closure and against time allocation in this chamber more than anyone else is Senator Murray.

Some Hon. Senators: Shame!

Senator Lynch-Staunton: Suddenly, for whatever reason, he moves a closure motion, which is not the same as time allocation. Our rules deal with time allocation, which at least allows debate on the time allocation motion itself and then, if that is accepted, debate on the matter which is subjected to time allocation.

Senator Murray is asking us to pass this, with no discussion. He is asking us to get rid of every item, everything pertinent to the bill, with no discussion. Senator Murray's motion is unprecedented.

We have this unprecedented closure motion on a private member's bill which, if accepted, will set a precedent that can be applied to a government bill, an inquiry, a motion or whatever; and then, even before any senator rose to speak, Senator Joyal said, “I move the previous question,” thus denying debate on an unprecedented motion.

I hope quite a few of us here care about how this chamber operates.

Senator Cools: I do.

Senator Lynch-Staunton: This has nothing to do with Bill C-250. The decision on that bill will be made eventually.

Senator Murray can giggle all he wants. I have heard him malign us because he thinks because we are now Conservatives we are all branded with a brand that he dislikes. That is something which I will discuss privately with him at another time.

If the Senate accepts the principle of Senator Murray's motion, then we will be going down a very slippery slope. If we accept his motion — and again it has nothing to do with Bill C-250 as far as I am concerned — it will mean that any senator can move at any time that a debate on a bill, a motion or whatever be concluded.

Senator Joyal then tells us we cannot debate his motion. I take offence to that. I hope others share my concern.

Senator Murray: Honourable senators, this is debate. I appreciate the points that have been made by the Leader of the Opposition.

To begin with, of course this has everything to do with Bill C-250. That is what it is about. Let us be perfectly frank about it: What we have here is a clash of strategies, if you like. I have already described — and I do not think I have to describe it again because honourable senators have been witness to it these last few days — the strategy that was adopted by some of the opponents of Bill C-250. The strategy was very clear: By bringing in a series of subamendments to the amendment that was already on the floor, and then deferring votes on those amendments, they could prevent Bill C-250 from ever coming to a vote in any reasonable time frame.

At the risk of repeating what someone else said, let me be very clear: I know what they are doing is within the *Rules of the Senate of Canada*. Of course it is within the rules. Therefore, to that extent, it is a legitimate parliamentary strategy.

However, honourable senators, it is no more legitimate than the strategy I have adopted to try to frustrate them and to try to ensure that all honourable senators have the opportunity to vote on the final disposition of Bill C-250.

My honourable friend says this motion is absolutely unprecedented. It is true that our rules, at least since 1991 or 1992, have provisions for the allocation of time on government business. However, there is certainly nothing in our rules to prevent an honourable senator from getting up, giving 24 hours' notice of a motion and, when the motion is called, proceeding to debate and then putting it to a vote of the Senate, as to when the Senate wants to deal with the particular item of business. That has been done for many years — before Senator Cools was appointed, and even before I was appointed. It is still done. At the beginning of every session of Parliament when there is a Speech from the Throne, a motion is moved to fix the date on which the debate on the Throne Speech will take place. The same procedure is followed regarding the debate on the budget.

Of course my motion is in order. Of course it is just as legitimate as the strategy that was adopted by some of my friends who sought to prevent the bill from ever coming to a vote. There is no question about that at all.

• (2050)

Now, with regard to Senator Joyal's motion that the question be now put, the effect of that motion is to prevent my motion from being amended. Of course my friend knows that, and it was

the only course open to us, because if that motion had not been made then we would be away to the races again on my motion, as we were on Bill C-250, with amendments and subamendments and all the rest of it. As for the motion itself, that the question be now put, it has a very long and honourable history in Parliament.

As a matter of fact, the motion that the question be now put made Confederation possible in the United Province of Canada when the debates were being held on the Quebec resolutions that formed the basis of the BNA Act. Sir John A. Macdonald at one point in the debate rose to move the previous question, or caused someone else to get up, and therefore not cut off debate because once the previous question is moved everyone gets a chance to speak, including those who have already spoken on the main motion. He rose to cut off amendments, telling the members of the United Province of Canada that what he had negotiated was in the form of a treaty, really, with New Brunswick and Nova Scotia, Ontario and Quebec, and that he wanted the Parliament to vote it up or down. They voted it up and that was the beginning of the legislative process that led to Confederation.

Indeed, Senator Joyal's motion has a very long and honourable history in parliamentary terms and in Canadian history. Therefore, I reject absolutely that my motion is unprecedented. It is completely within the rules. All I seek to do is to ensure that honourable senators in this place have the same opportunity that honourable members in the other chamber had, which is to cast a final vote on the disposition of Bill C-250.

Senator Lynch-Staunton: During the Confederation debates the question was not put immediately before the motion; it was put after the debates. Therefore, I find that the argument Senator Murray is presenting may be historically correct but not appropriate.

I will quote from a debate on February 3, 1993, found at page 2735 of the *Debates of the Senate*, where Senator Murray, then Leader of the Government, said:

The so-called closure rule is a last resort in this place. There is a requirement under rule 39 that the two parties attempt to reach agreement on the length of time to be devoted to a bill at any stage. I believe that arriving at such an agreement on most legislation is conducive to the effective operation of this or any parliamentary assembly. I further believe that it is also conducive to the convenience of honourable senators on both sides.

I agree with him completely. I just wonder why no attempt was made, as far as I am aware, to come to an agreement with those who are adamantly opposed to this bill and are using procedural methods to maintain their position, and those who are also using procedure to paralyze this place together with the others. I do not understand why there have not been discussions with those who feel so strongly one way or the other to say let us come to some sort of understanding, otherwise we will be on this item indefinitely. What troubles me is that we are sitting here tonight and could be sitting here tomorrow and Monday and Tuesday on an issue that I believe could be resolved if there were to be a more collegial approach, which I have yet to see and which I deplore.

Hon. Gerry St. Germain: Honourable senators, I am quite concerned about the statement made by Senator Murray wherein he refers to manipulation. He clearly points out that the procedures that have been taken are fully within the rules and regulations of this place and have occurred on three or four occasions. This is not like the GST filibuster. He either has an awfully short memory or else he has changed his political affiliation to some other loyalty.

Senator Murray: Not me.

Senator St. Germain: Do not give me this "not me" stuff. There is no manipulation.

Honourable senators, we would not be here — listen, you have never been a Conservative, Senator Murray, and you never will be, so forget it.

Senator Rompkey: Welcome back!

Senator St. Germain: I am very concerned about this whole process.

I see Senator Furey enjoying himself over there. He intervened, but I am not prepared to release what happened in camera. There was great concern, which was brought "outside of camera" by Senator Cools, that we wanted more witnesses to appear before the committee so that the bill would get a proper hearing. Senator Murray figures that this is a real exciting topic to get into.

I have great respect for Senator Joyal, who has a position on Bill C-250, and I hope he respects my position as I do his.

I have always had a deep respect for people who will stand and argue for their beliefs regardless if I do not agree with them, which I think this is important. This is what this place is all about. I want him to understand why he takes this position and why I take mine. If we never agree, at least we have the respect to be able to speak to each other and not denigrate each other like Senator Murray has done in trying to tear down Senator Lynch-Staunton and other colleagues on his side.

Keep me out of the equation if you like because I did go somewhere else for a period of time, but it is people like you who drove me there.

Reasonableness is always a matter of opinion. I believe, like Senator Lynch-Staunton, that this entire situation in regard to this motion is a very dangerous precedent. I am no rules and regulations expert. I am not a lawyer. I am just a chicken farmer with a commercial pilot's licence, but I can tell honourable senators one thing.

Senator Rompkey: You are a high flyer.

Senator St. Germain: With chickens.

When I look at closure in the manner that it is being presented by way of this motion, I can see huge abuses on the horizon. I am sure the sun will come up the same way it did this morning even if

the motion does proceed, but I think it poses a giant risk. Traditionally, when closure has been invoked in this place, it has been invoked by the Leader of the Government or the Deputy Leader of the Government on a government piece of legislation. I think this is key.

When we look at this piece of legislation, there is time down the road. I honestly believe that there is great danger in moving into an area where there is no debate, no room for amendments, no room for anything. This motion is final and the guillotine drops on the issue. That is what Senator Murray has proposed.

The greatest critic of closure in this place, and one of the most eloquent in his delivery, is now proposing something that would be detrimental to this institution, for senators who are here now and for future senators.

Senator Cools: I just wanted to answer Senator Murray because I lived through the GST and remember it very clearly. We were on opposite sides of the chamber. I remember the damage that was done to this institution for years and to Senator Murray's great respect for Senator MacEachen, and it took years to repair that relationship. Make no mistake; these kinds of processes are deadly to institutions such as ours. I would like to take issue with what the honourable senators has said on the grounds of practice and procedure.

• (2100)

Honourable senators, this motion is hideous because it combines two different kinds of motions. It is a motion for the previous question, which has historically been called "closure," and it is a motion for time allocation, which is the guillotine.

First, it is very rare that these two motions are moved together. Second, Senator Murray moved a motion for time allocation, which is called a "guillotine" motion. That is not open to him, a private member. Motions for the guillotine are open only to ministers of the Crown, and all the precedents show that, regardless of what precedent you cite, be it from Redlich, May or Campion. It is not open to any private member. Had government members wanted such a motion to be moved, they should have bit the bullet and let the Leader of the Government in the Senate move it.

On another point, Senator Murray acted as though this was all very routine, just a little conflict of strategy. I have news for him. Anything that I have done is right and proper, and he cannot say that this our actions in moving amendments was just repeated. This only went on for a few days. In the business of Parliament, that is not long enough to be viewed it as an obstruction.

My point is that these are such exceptional procedures that they are supposed to be used rarely, and when they are put forward, usually at the initiative of a minister of the Crown, two factors must apply: urgency and the public interest. It is up to the minister of the Crown, when he rises, to explain carefully that he is moving such a motion because there is an urgency for the proposal and that there is a public interest in responding to that urgency.

Since Senator Murray cited some history, I will also cite some. These processes were all introduced by Prime Minister Gladstone in England. The view of these procedures, some of which were eventually included in standing orders, was that when the minister made such a declaration, it was a declaration of a siege and it threw Parliament into a state of dictatorship. The literature is replete with such examples.

Senator Murray simply cannot do this, because, if what he says is true, any one of us could have resorted to the same mechanism and moved such a motion. Granted, he was confident that his motion might carry because of Liberal support. It is a dangerous motion. It is frightening and troubling to me. If this is not properly dealt with, we will have a phenomenon whereby any private member can move such a motion any time.

Senator Murray relies on the trivia surrounding whether it was moved with proper notice. That is inconsequential. The fact is that such a tool is not available to a private member. I hope that, as this matter unfolds, this will be made abundantly clear. I have reviewed the literature and the two together are ungodly.

Senator Murray seems to find that amusing.

Senator Murray: I think “ungodly” is a bit strong.

Senator Cools: Sometimes when people have been here a long time they become so cynical that they forget that there are ordinary people out there barely making a living. They live from paycheque to paycheque. We should show some sensitivity and a little bit of humility. It would serve us well. It is no wonder that the Senate is held in such low regard and esteem.

Some Hon. Senators: Question!

Senator Lynch-Staunton: We will proceed to the vote. Be patient. I wish that Senator Joyal had explained why he wanted to move the question before any debate on Senator Murray's motion. It has nothing to do with what the motion targets; it has to do with how we run our affairs. Senator Murray has presented a motion we have never seen before — at least I have not. Before we could even discuss it, Senator Joyal was recognized to move the previous question, which means that any amendments that could improve or amend his motion can no longer be discussed.

I find this an insult to the Senate. I find this an insult to our ability to debate key questions. We are talking about procedure here. We are no longer talking about Bill C-250. We are talking about how we can skewer a debate by anyone rising at any time and moving a motion to, in effect, limit debate. The government is only entitled to do so after the failure of discussions with the opposition, and then only on government legislation; and then only by allowing debate on the motion for time allocation; and then only by allowing a minimum of six hours on the subject matter of the time allocation.

Senator Murray: This is far broader, and it can be adjourned.

Senator Lynch-Staunton: No, no. Of course it can be adjourned. We could adjourn it to next week, but it is not a question of

timing or that we are getting tired or that it is nine o'clock. The question is: Do we want to go this route? I urge Senator Joyal to withdraw his motion to put the question and allow us to debate the motion itself and suggest amendments to it. If he does not, we will be, in effect, stuck with double closure, which, to me, is an insult to this place.

Senator Joyal: Honourable senators, I should like to accept the invitation of the Honourable Leader of the Opposition to respond to his question. Honourable senators know the great respect I have for the position that the honourable senator has in this chamber and the role of the opposition party in debate. There is no debate if there is no opposition. It is a longstanding principle, established in a famous case by Chief Justice Duff in 1937, and a cornerstone of our Constitution and its preamble, that a constitution similar to the one of the United Kingdom is essentially based on debate, and in debate there must be conflicting views. There are arguments and counter-arguments, rebuttal and answer. It is through such debate that finally a consensus emerges. That is the cornerstone of democracy in Parliament.

In the last months, I have been paying attention to what has been happening with regard to this bill. As Senator Murray mentioned, this is not a new bill; it is the reincarnation of a previous bill.

I listened to Senator Cools very carefully and I would beg her indulgence to allow me to make my points.

Senator Cools: I am listening to Senator Joyal carefully.

Senator Joyal: This bill is the reincarnation of a previous bill. To my recollection, 17 senators spoke on second reading debate on the previous bill. They discussed the pros and the cons. I was here all the time listening carefully to the arguments and I tried to determine whether the points they were making were sound, especially those in relation to the Charter of Rights, which is a fundamental element in a bill such as this.

I listened to all 17 interventions. Of course, the bill died because there was dissolution of the previous session. The bill was then reintroduced and I listened again to the arguments that were put on both sides of the chamber. Some were just a restatement of the previous arguments, but there were some new arguments, and I listened to them very carefully.

This bill was then referred to committee, under the chairmanship of Senator Furey. In committee, we heard more witnesses opposed to the bill than witnesses supportive of the bill. I convinced myself that the various arguments against the bill were fairly presented.

• (2110)

Senator Cools stated some of that testimony earlier this afternoon in a previous intervention. I tried to convince myself that the bill has had reasonable debate, that it was time to return the bill to this chamber because here we have a wider expression of opinion because, of course, those who are not members of the committee can stand up and state their views on the bill.

[Senator Cools]

Of course, I have seen in this chamber — and I am not passing judgment on it — amendments, then subamendments, more subamendments and further subamendments and then deferral of votes. I did not scream when there was deferral of votes. It is in the rules. If it is in the rules, so be it, as long as we do not amend the rules. It was an opportunity afforded and deferral is an option on both sides of this chamber. However, at a point in time, one begins to recognize the general political environment, the possibility of an election. We all know, of course, that when an election is called, everything on the Order Paper is lost, all the hours and effort put into study and to understanding the issue.

I was under the impression that we have had an opportunity to debate the bill. However, there is a clock ticking, day after day. We could run the chips, but if an election is called next week, the bill would die.

This bill, even though it is a private member's bill, is still a bill. It has been voted in the other place. I happen to accept the content and the merit of this bill. Sometimes I am asked by the Leader of the Government if I will sponsor a bill. If I read the bill and come to the conclusion that I have some questions on its merit, I refuse. I read this bill and supported the principle and the nature of it.

I would be the last one, Senator Lynch-Staunton, to avoid debates in this chamber. As a matter of fact, if one were to search the *Journals of the Senate*, one would find that where closure has been imposed, I stood up, too, and explained my position on the closure.

I perceived that tactics were being used honestly in accordance with the rules and that we would not come to this point of having to dispose of the bill now. However, there is a general belief that the bill will die, even with all the efforts that have been made by all the senators who have spoken on this issue — and there have been more than 20. I think it is now time for the bill to come to a vote.

I agree that if we use the rules to their extreme limit, they might eventually impact the way we run our business. My honourable friend is absolutely right. It is always better to come to an agreement, to negotiate a settlement. As the victim says, a settlement is always better than any trial or judgment. I agree with that sentiment.

I was wondering whether tonight we would have been in a position to negotiate on anything if we had not come to the point where we are now. I do not want an answer. I just raise the question.

I have the greatest respect for the way Senator Lynch-Staunton exercises his position and responsibility as Leader of the Opposition. However, given the conviction that I have in relation to this bill, I think the time has come to ask for honourable senators to take a stand on it.

Some Hon. Senators: Hear, hear!

Senator Lynch-Staunton: I respect that position. I want to make it quite clear that I have not taken a position on the bill on purpose because, were I to do so, it might be identified as that of our caucus. Members of our caucus recognize that private — member's bills are not subject to caucus discipline and that they are entitled to vote any way they wish. I will do so in due course. I deliberately stayed out of the vote on Bill C-250 so that I would not be identified as representing a view that is not shared by my colleagues.

The concern that I will share is that Senator Murray's motion and Senator Joyal's motion are brutal and unnecessary. If accepted, they would set a precedent. This place does not operate by having a senator stand up and say, "I have had enough of your debate, and the day after this motion passes, we will vote on it at three o'clock." We have never done that here except after difficult discussions and a real inability to come to agreement.

In this case, there has been no attempt to come to an agreement. That is my objection. There has been no attempt to have discussions with those who feel strongly about this bill and are engaging in procedural objections, successfully so far. There has been no attempt to hold discussions with them. Am I being naive or overly principled? That would be a better approach than the one that Senators Murray and Joyal are presenting to us tonight.

Senator Cools: Honourable senators, the situation that has been described by Senator Joyal does not meet my perception. For example, there was such a rush to refer the bill to committee that I was not allowed to speak at second reading debate. That bothered me very deeply. We were not allowed free debate.

• (2120)

In addition, when the bill was in committee, I was unable to call the witnesses that I wanted to hear. I found a reluctance of the committee to hear witnesses.

In addition, honourable senators, another factor that has never been canvassed on this bill is that this bill was never reintroduced in the House of Commons. It was reinstated in some kind of ad hoc way on the premise that an order of the house can set aside prorogation as well as the need for three readings. This bill has not had three readings in the House of Commons, honourable senators.

This bill is fraught with problems and irregularities, and I sincerely believe that there is a way for senators to deal with each other with some respect, that we can come to an agreement. My perception, frankly, to Senator Joyal and to Senator Furey, is that no one has wanted to discuss Bill C-250 with me.

Furthermore, this bill has always moved along as a government bill. Never has there been an episode in this place where government members have sat at this hour of the night moving a private member's bill along.

I listened carefully to Senator Joyal. He kept saying, "I thought" and "I came to the conclusion that we should move it out of the committee." I do not know when last any member rose and said that he or she was able to make decisions on the exact timing a particular bill would take. Only the government has that power. No private member can, only a minister of the Crown can set that in motion.

I want honourable senators to know that I have found the entire process quite shoddy in places and extremely unsatisfactory and, in my mind, most unsenatorial.

The Hon. the Speaker *pro tempore*: Is the house ready for the question?

Some Hon. Senators: Question!

The Hon. the Speaker *pro tempore*: It was moved by Honourable Senator Joyal, seconded by the Honourable Senator Maheu, that the motion of the Honourable Senator Murray regarding Bill C-250 be now put. Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker *pro tempore*: Those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore*: Those opposed to the motion will please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker *pro tempore*: In my opinion, the "yeas" have it.

And two honourable senators having risen:

The Hon. the Speaker *pro tempore*: Call in the senators.

Senator Stratton: I would like to take the opportunity to defer the vote to the next sitting of the Senate, which, I believe, as had been agreed, is Tuesday, at 5:30 p.m.

Hon. Shirley Maheu: The next sitting day after Friday would suit the government members.

Senator Rompkey: There is already a vote set for 5:30 p.m.

Senator Robichaud: They will be taken in sequence.

Senator Stratton: The votes will be taken in sequence, one after the other, at 5:30 p.m. on Tuesday.

The Hon. the Speaker *pro tempore*: Senator Maheu has deferred the vote to the next sitting after Friday.

Senator Lynch-Staunton: That is what the rule allows.

Senator Stratton: We had an agreement. I thought that we were voting on Tuesday at 5:30 p.m. on the subamendment. Therefore, if we have agreement to vote sequentially, it would be Tuesday at 5:30 p.m. along with the subamendment.

The Hon. the Speaker *pro tempore*: Is it agreed, honourable senators?

Hon. Senators: Agreed.

ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Tuesday, April 27, 2004, at 2 p.m.

The Hon. the Speaker *pro tempore*: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Tuesday, April 27, 2004, at 2 p.m.

THE SENATE OF CANADA
PROGRESS OF LEGISLATION
(3rd Session, 37th Parliament)
Thursday, April 22, 2004

GOVERNMENT BILLS
(SENATE)

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
GOVERNMENT BILLS (HOUSE OF COMMONS)									
No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
C-3	An Act to amend the Canada Elections Act and the Income Tax Act	04/04/01	04/04/22	Legal and Constitutional Affairs					
C-4	An Act to amend the Parliament of Canada Act (Ethics Commissioner and Senate Ethics Officer) and other Acts in consequence	04/02/11	04/02/26	Rules, Procedures and the Rights of Parliament	04/03/23	0	04/03/30	04/03/31	7/04
C-5	An Act respecting the effective date of the representation order of 2003	04/02/11	04/02/20	Legal and Constitutional Affairs	04/02/26	0	04/03/10	04/03/11	1/04
C-6	An Act respecting assisted human reproduction and related research	04/02/11	04/02/13	Social Affairs, Science and Technology	04/03/09	0	04/03/11	04/03/29	2/04
C-7	An Act to amend certain Acts of Canada, and to enact measures for implementing the Biological and Toxin Weapons Convention, in order to enhance public safety	04/02/11	04/03/11	Transport and Communications	04/04/01	0			
C-8	An Act to establish the Library and Archives of Canada, to amend the Copyright Act and to amend certain Acts in consequence	04/02/11	04/02/18	Social Affairs, Science and Technology	04/03/11	3	04/03/29	04/04/22	11/04
C-13	An Act to amend the Criminal Code (capital markets fraud and evidence-gathering)	04/02/12	04/02/24	Banking, Trade and Commerce	04/03/11	0	04/03/22	04/03/29	3/04
C-14	An Act to amend the Criminal Code and other Acts	04/02/12	04/02/25	Legal and Constitutional Affairs	04/04/01	0	04/04/21	04/04/22	12/04
C-16	An Act respecting the registration of information relating to sex offenders, to amend the Criminal Code and to make consequential amendments to other Acts	04/02/12	04/02/19	Legal and Constitutional Affairs	04/03/25	0	04/04/01	04/04/01	10/04
C-17	An Act to amend certain Acts	04/02/12	04/03/09	Legal and Constitutional Affairs					
C-18	An Act respecting equalization and authorizing the Minister of Finance to make certain payments related to health	04/03/10	04/03/22	National Finance	04/03/23	0	04/03/25	04/03/29	4/04
C-20	An Act to change the names of certain electoral districts	04/02/23	04/03/09	Legal and Constitutional Affairs					

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
C-21	An Act to amend the Customs Tariff	04/03/24	04/04/01	Banking, Trade and Commerce	04/04/22	0			
C-22	An Act to amend the Criminal Code (cruelty to animals)	04/03/09	04/04/20	Legal and Constitutional Affairs					
C-24	An Act to amend the Parliament of Canada Act	04/03/22	04/03/29	Social Affairs, Science and Technology					
C-26	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2004	04/03/22	04/03/25	—	—	—	04/03/26	04/03/31	5/04
C-27	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2005	04/03/22	04/03/25	National Finance	04/03/30	0	04/03/30	04/03/31	8/04

COMMONS PUBLIC BILLS

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
C-212	An Act respecting user fees	04/02/03	04/02/11	National Finance	04/02/26	10	04/03/11	04/03/31	6/04
C-249	An Act to amend the Competition Act	04/02/03	04/04/01	Banking, Trade and Commerce					
C-250	An Act to amend the Criminal Code (hate propaganda)	04/02/03	04/02/20	Legal and Constitutional Affairs	04/03/25	0			
C-260	An Act to amend the Hazardous Products Act (fire-safe cigarettes)	04/02/03	04/02/23	Energy, the Environment and Natural Resources	04/03/10	0	04/03/30	04/03/31	9/04
C-300	An Act to change the names of certain electoral districts	04/02/03							

SENATE PUBLIC BILLS

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
S-2	An Act to prevent unsolicited messages on the Internet (Sen. Oliver)	04/02/03	04/03/23	Transport and Communications					
S-3	An Act to amend the Constitution Act, 1867 and the Parliament of Canada Act (Speakership of the Senate) (Sen. Oliver)	04/02/03		subject-matter 04/03/11 Legal and Constitutional Affairs					
S-4	An Act to amend the Official Languages Act (promotion of English and French) (Sen. Gauthier)	04/02/03	04/02/26	Official Languages	04/03/09	0	04/03/11		
S-5	An Act to protect heritage lighthouses (Sen. Forrestal)	04/02/03	04/02/05	—	—	—	04/02/05		
S-6	An Act to amend the Criminal Code (lottery schemes) (Sen. Lapointe)	04/02/04	04/02/11	Legal and Constitutional Affairs					

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
S-7	An Act respecting the effective date of the representation order of 2003 (Sen. Kinsella)	04/02/04	Bill withdrawn pursuant to Speaker's Ruling 04/03/23						
S-8	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	04/02/05	04/02/12	Energy, the Environment and Natural Resources	04/03/10	0	04/03/11		
S-9	An Act to honour Louis Riel and the Metis People (Sen. Chalifoux)	04/02/05							
S-10	An Act to amend the Marriage (Prohibited Degrees) Act and the Interpretation Act in order to affirm the meaning of marriage (Sen. Cools)	04/02/10							
S-11	An Act to repeal legislation that has not been brought into force within ten years of receiving royal assent (Sen. Banks)	04/02/11	04/03/09	Legal and Constitutional Affairs					
S-12	An Act to amend the Royal Canadian Mounted Police Act (modernization of employment and labour relations) (Sen. Nolin)	04/02/12							
S-13	An Act to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions (Sen. Stratton)	04/02/19							
S-14	An Act to amend the Agreement on Internal Trade Implementation Act (Sen. Kelleher, P.C.)	04/03/10		subject-matter 04/03/22 Banking, Trade and Commerce					
S-16	An Act to amend the Copyright Act (Sen. Day)	04/03/11	04/03/23	Social Affairs, Science and Technology					
S-17	An Act to amend the Citizenship Act (Sen. Kinsella)	04/03/25	04/04/01	Social Affairs, Science and Technology					
PRIVATE BILLS									
No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
S-15	An Act to amend the Act of incorporation of Queen's Theological College (Sen. Murray, P.C.)	04/03/10	04/03/11	Legal and Constitutional Affairs	04/03/25	0	04/03/25	04/04/01	

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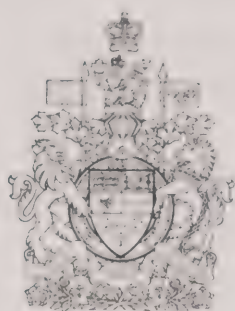
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CANADA

Debates of the Senate

3rd SESSION

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37th PARLIAMENT

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THE HONOURABLE LUCIE PÉPIN
SPEAKER *PRO TEMPORE*



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THE SENATE

Tuesday, April 27, 2004

The Senate met at 2 p.m., the Hon. the Speaker *pro tempore* in the Chair.

Prayers.

SENATORS' STATEMENTS

QUESTION OF PRIVILEGE

NOTICE

Hon. Anne C. Cools: Honourable senators, pursuant to rule 43(7) of the *Rules of the Senate*, I give oral notice that I will rise later this day to raise a question of privilege in respect of events and actions during Senate proceedings on Thursday, April 22, 2004. Earlier today, in accordance with rule 43(3), I gave written notice of the same to the Clerk of the Senate.

Honourable senators, I would be asking the Speaker of the Senate to make a finding of *prima facie* privilege. If Her Honour so finds, I am prepared to move the necessary motion.

THE LATE BEATRICE WATTS

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, Labrador today mourns the passing of Beatrice Watts. Born to Joe and Rosie Ford of Nain, she grew up in that community speaking both Inuktitut and English. She was an apt student who became a widely respected teacher. From being principal of Yale Elementary School in North West River, she moved on to become Curriculum Coordinator for the Labrador East School Board. It was from this position that she designed and engineered a return to the speaking of Inuktitut in northern Labrador schools — a policy that helped immeasurably in the preservation of the Inuit culture in Labrador. She was also active as a leader among Inuit women in her home community of North West River and across the country. Recently, the Labrador Inuit Association honoured her for her role in education. Before that, she had received a National Citizenship Award from the Governor General and an Honorary Doctor of Laws degree from Memorial University. Up to the time cancer struck her, she was an active leader in the Labrador Inuit land claims team.

She would have made an excellent judge for she was not only bright and alert but also eminently fair and reasonable in all her dealings. Generous and compassionate, she nevertheless could assess and weigh both the good and the bad in people and events. We shall not easily find her like again. Labrador has lost an outstanding leader; North West River has lost a prominent citizen; Ron and his children have lost a dear wife and mother; and I have lost a good friend.

ONTARIO EXPERT PANEL ON SARS AND INFECTIOUS DISEASE CONTROL

Hon. Wilbert J. Keon: Honourable senators, I rise to speak briefly to the final report of the Ontario Expert Panel on SARS

and Infectious Disease Control that was released last Wednesday, April 21, 2004. In my view, it is an excellent report. I should like to congratulate all members of the panel, in particular, the Chair, Dr. David Walker, Dean of the Faculty of Health Sciences and Director of the School of Medicine at Queen's University, as well as Ms. Gail Peach, Assistant Deputy Minister, Ministry of Health and Long-Term Care and her staff who drafted the report. It was a great pleasure to work with these people over the last year.

This final report of the Ontario Expert Panel on SARS and Infectious Disease Control fleshed out recommendations initially outlined in the interim report in December and adds 50 recommendations to the 53 outlined in that report.

In this final report, the panel presents a series of core steps that are considered foundational to the overall public health renewal process. The steps include an approach to the development of an Ontario health protection and promotion agency and strengthened infrastructure at the provincial level, as well as a series of phased, practical steps required at the local and regional levels. These latter steps are required to enhance local capacity and preparedness to strengthen the protection of patients, health care providers and the public on a day-to-day basis. In essence, the panel envisions the creation of a new Ontario health protection and promotion agency as only one element of a much larger renewal effort that must be supported by broader changes at the local, regional, provincial, national and international levels.

In addition to being the key focus of our initial report, this conviction has also been reflected in the work of Dr. Naylor and the National Advisory Committee on SARS and Public Health, the work of our Standing Senate Committee on Social Affairs, Science and Technology and in the earlier work of the Walkerton Inquiry. All these reports emphasize the importance of addressing the weakness in the foundations of public health systems in Canada and infection control capacity. They do not simply redirect existing resources and functions into a new central structure. In the panel's view, if the provincial and federal governments were to create new public health agencies and simply redirect existing resources into these agencies, we would have built some of the structure but we would not have built the foundations.

It is gratifying to see the consistency of the various reports and the spirit of local, regional, provincial, national and international cooperation that is unfolding as we move forward.

• (1410)

PROTECTING FREEDOMS IN A DEMOCRATIC SOCIETY

Hon. W. David Angus: Honourable senators, I would like to draw your attention to the following statement from the noted U.S. philosopher, linguist and civil libertarian Noam Chomsky:

If we don't believe in freedom of expression for people we despise, we don't believe in it at all.

Protecting freedoms in a democratic society does not mean defending only the voices that are pleasing and acceptable to us; protecting freedoms begins with the defence of those voices most despised and despicable. It is upon this principle that our free and democratic society is based and it is upon this principle that we, I submit, must govern.

The trouble with fighting for human rights and freedoms is that it begins with the difficult task of opposing the oppressive laws that are first aimed at silencing those who hold opinions with which we disagree. We, as legislators — I again respectfully submit — must keep in mind these principles when considering legislation and make our decisions accordingly. Sometimes the path that seems to be the easiest and the most correct by limiting hateful speech will ultimately limit speech for all.

As former British Lord Chief Justice Hailsham, late member of the House of Lords asserted:

The only freedom which counts is the freedom to do what some other people think to be wrong. There is no point in demanding freedom to do that which all will applaud. All the so-called liberties or rights are things which have to be asserted against others, who claim that if such things are to be allowed their own rights are infringed or their own liberties threatened. This is always true, even when we speak of the freedom to worship, of the right of free speech or association, or of public assembly. If we are to allow freedoms at all there will constantly be complaints that either the liberty itself or the way in which it is exercised is being abused, and, if it is a genuine freedom, these complaints will often be justified. There is no way of having a free society in which there is not abuse. Abuse is the very hallmark of liberty.

Honourable senators, I would encourage us all to keep these principles in mind today and tomorrow when we go through our orders of business. In this regard, I simply would remind senators of the following words in section 2 of the Canadian Human Rights Act, 1977. Section 2 says, in part:

...all individuals should have an opportunity equal with other individuals to make for themselves the lives that they are able and wish to have and to have their needs accommodated, consistent with their duties and obligations as members of society, without being hindered in or prevented from doing so by discriminatory practices based on race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability or conviction for an offence for which a pardon has been granted.

The fundamental question is, honourable senators, do we prefer to live in a society that is so rigid and law-based that there is no room for diversity or flexibility, where no person can speak their mind and exercise their democratic freedoms? Or, would we rather live in a society that fosters diversity of opinion, allows freedom and liberty, but also leaves room for anticipated abuse as stated by Lord Hailsham?

The Hon. The Speaker pro tempore: I regret to inform the honourable senator that his time has expired.

THE SENATE

EFFECT OF MOTION TO DISPOSE OF BILL C-250

Hon. David Tkachuk: Honourable senators, last Wednesday, a senator introduced in this chamber an extraordinary motion. It was coupled with the motion on the previous question by another senator, a motion of closure that is even more draconian than the closure motion normally introduced by the government in this chamber, which limits the time of debate.

In the government motion, there is a period of time to debate the time limitation, namely two and a half hours. Then there is a provision, if it passes, for another six hours of debate before the question is put.

The motion, which is on the Order Paper today, is probably the result of frustration felt by the senator and on behalf of others that a bill, which they vociferously support, has not yet been put to a vote. Those of us who are perceived as holding up the vote on this bill represent a minority in this chamber, but I dare say close to a majority, if not a majority, in this country if the facts were known.

There is fear that an election will be called and that this bill will die on the Order Paper. I have no influence over that. Since none of us here can call this election, none of us has the power to make that decision, although there are those here who may be more influential. I only know, as a senator, that rules protect the minority. The last time I looked, the good senator who introduced this instrument was also a member of a minority group whose major instrument and friend in this place for him to state his case, outside of his own learned ability, are the rules that he has so transfigured by the introduction of this instrument. While they may be helpful to him in his cause now, he has taken upon himself to initiate a rule over which the government in the past has exercised a monopoly, because there is no doubt in this place that his view of this bill is the majority view, with the voters of this country having no recourse to his privileged position. After all, the government minister is indirectly responsible and, therefore, there is some accountability for their actions.

Senator St. Germain: Hear, hear!

Senator Tkachuk: He has reduced this place to mob rule, where major opinion will now have the sledgehammer effect of crushing minority opinion, without any recourse by the public.

Senator St. Germain: Shame.

Senator Tkachuk: This form of elitism will do extreme damage to this institution if it is ever contemplated. The problem for the proponents of this bill is not that we have, by amendment, forced the debate to continue a little longer, rather, they are concerned about an election call effectively killing this bill for the time being. God forbid that we might have to debate this issue in the body politic. This action on the bill, imposed on the Senate for a period of seven whole days, can hardly be called a filibuster.

ROUTINE PROCEEDINGS

NATIONAL SECURITY POLICY

TABLED

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour to table, in both official languages, two copies of a document entitled "Securing an Open Society: Canada's National Security Policy."

NATIONAL SECURITY AND DEFENCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE

Hon. Colin Kenny: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Standing Senate Committee on National Security and Defence have power to sit at 5 p.m. on Monday next, May 3, 2004, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

QUESTION PERIOD

CITIZENSHIP AND IMMIGRATION

APPOINTMENT PROCESS TO IMMIGRATION AND REFUGEE BOARD

Hon. Donald H. Oliver: Honourable senators, my question is for the Leader of the Government in the Senate. It relates to a question I asked last month in this chamber of the government leader.

Honourable senators, on March 16, Citizenship and Immigration Minister Judy Sgro announced that a new appointments process would be introduced in the Immigration and Refugee Board, supposedly doing away with the political role in the current system. That system has been the subject of much controversy over the years, especially with the recent bribery scandal involving a judge.

• (1420)

In the past few weeks, however, one judge has been appointed and three judges have been reappointed by the minister under the existing system and not the new system. Once again, it seems that the Liberals are trying to appear as though they are making changes when, in fact, the opposite is true.

I have two questions for the Leader of the Government in the Senate: Why were these judges appointed under the old system? When will the new system be put in place?

Hon. Jack Austin (Leader of the Government): Honourable senators, Senator Oliver goes part way in answering his own question. The new system is not yet in place. The announcement made was that we would be working to create a new system.

In the meantime, the business of government must go on. These appointments are required to ensure that the business of government does go on. However, the government is working assiduously to put a new system in place with respect to the whole question of citizenship and immigration.

Senator Oliver: Could the Leader of the Government in the Senate tell us if the minister will refrain from making any more appointments or reappointments to the Immigration and Refugee Board until the selection process has been changed?

Senator Austin: Honourable senators, until the process is changed by the government or Parliament, as the case may require, we will have to continue to make appointments.

Senator Oliver may note that they are relatively short-term appointments.

HEALTH

CHINA—SEVERE ACUTE RESPIRATORY SYNDROME SCREENING OF AIR PASSENGERS TO CANADA

Hon. Marjory LeBreton: Honourable senators, last week we saw the re-emergence of severe acute respiratory syndrome in China, as eight new cases have been reported to date. Health officials in that country have reported two confirmed cases of SARS and six suspected cases. One person has died and hundreds have been quarantined.

Health Canada has reportedly asked quarantine officials at eight Canadian airports to be more vigilant in screening passengers arriving from China for possible respiratory problems. Could the Leader of the Government in the Senate tell us if air passengers in Beijing and Hunan Province, China are currently being screened before they board flights to Canada?

Hon. Jack Austin (Leader of the Government): Honourable senators, this is, of course, a situation that creates an enormous alert in the entire system. As Senator LeBreton knows, we have quarantine officers working at major airports. They are working with the customs officers and personnel to watch arriving passengers who may exhibit symptoms.

We also have monitors in China who are closely surveying the situation and working with the World Health Organization as well as with Chinese authorities.

Senator LeBreton will know there is no confirmed case of human transmission with respect to this episode of SARS. For the time being, we do not have officers at ports of debarkation.

One of the practical problems, as Senator LeBreton will know, is the multiplicity of such ports. It would take an enormous number of well-trained officers and it would require the permission of the host countries and their administrative systems. If sources are defined, I have no doubt that we might want to make a request, as would many other countries. There would have to be some arrangement by which passengers intending to travel could be screened.

It is my further information that Chinese authorities have personnel at airports to deal with international passengers.

IMPLEMENTATION OF REPORT OF NATIONAL ADVISORY COMMITTEE ON SARS AND PUBLIC HEALTH

Hon. Marjory LeBreton: Honourable senators, the recurrence in China of SARS should remind us of the necessity of ensuring that Canada is better prepared in the future to deal with a similar health emergency.

A report last fall from the federally sponsored National Advisory Committee on SARS and Public Health led by Dr. David Naylor made 75 recommendations, most of which have not been acted upon. Indeed, senators on the Standing Senate Committee on Social Affairs, Science and Technology appreciated Dr. Naylor's testimony before our committee on this very subject.

Many of these proposals had already been made in a federal report commissioned in 1994. My question, therefore, is: When does this government intend to implement the Naylor report recommendations?

Hon. Jack Austin (Leader of the Government): Honourable senators, with respect to the subject matter of Senator LeBreton's first question, a number of steps recommended by Dr. Naylor have been implemented.

With respect to the establishment of a public health agency, I can assure Senator LeBreton that the subject is under extremely active discussion at this time. I expect decisions shortly.

TREASURY BOARD

PERFORMANCE BONUSES OF SENIOR CIVIL SERVANTS

Hon. Gerald J. Comeau: Honourable senators, in the 2002-03 fiscal year, despite a string of management scandals, the government spent \$43 million on performance bonuses for its most senior civil servants. Some 93 per cent of all executives in Crown corporations received the bonus.

Could the Leader of the Government in the Senate advise as to why the government continues to pretend that these bonuses are performance pay when just about practically everyone gets one?

Hon. Jack Austin (Leader of the Government): Honourable senators, I thought I might be asked a question on this subject.

I have been advised that it is the practice to set aside a portion of the salary of a senior public servant, a deputy minister or an associate deputy minister and designate it as "at risk." That portion is paid with respect to the assessment of the performance of the officer. In other words, let us say that the salary is \$150,000. Some \$25,000 of it is set aside as "at risk," subject to the assessment of the performance of the senior public servant.

In the time frame mentioned, it was the opinion of those who make these judgments that 93 per cent of those who were subject

to this program were entitled to receive the at-risk portion of their payment. This is not a grossing-up system based on some ad hoc determination, but part of a regular system of pay management.

Senator Comeau: Honourable senators, given the figure of 93 per cent, one would have had to have messed up so as not to receive the supplement. As to the 7 per cent who were so incompetent that they did not receive their supplements, could the Leader of the Government in the Senate advise how many were let go?

Senator Tkachuk: They were promoted.

Senator Austin: Honourable senators, it is not fair to judge those who did not receive their at-risk pay as incompetent.

The system is such that they are given support services, consultation, programs and training to improve their performance and to assist them in developing their careers. We do not just do "chop-chop" the first time around.

Of course, if the non-performance is sustained, I imagine that the individual might be at risk not only as to pay, but also as to position.

I do not have a number for the honourable senator, and I am not sure I will be able to provide it.

Senator Comeau: Mr. Alcock, President of the Treasury Board, was very critical of this at-risk system. He argued that handing out performance bonuses to just about every federal executive can perpetuate mediocrity — those are his words, not mine — and can become an incentive to keep quiet about problems and to not rock the boat.

• (1430)

Is the government planning to reform the pay structure or does Mr. Alcock now prefer incentives that would encourage public servants, in his own words, to keep quiet about problems?

Senator Austin: Honourable senators, it is a different day today. I can advise Senator Comeau that the question of pay is under review, with no pre-set biases as to its outcome.

PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

NATIONAL SECURITY POLICY— TIMELINE FOR IMPLEMENTATION

Hon. Michael A. Meighen: Honourable senators, this morning in the other place the government tabled, at long last, its new national security policy. Indeed, Canadians have been crying out for a security policy ever since the terrorist attacks of September 11, 2001, which is now over two and a half years ago.

In the forward to this document, the Prime Minister identifies those attacks as one of the key motivators for the development of such a policy. I am tempted to ask the Leader of the Government in the Senate the obvious question: What took you so long? However, I will not, for the moment, do that. I would point out, though, that the policy that has been announced is very long on generalities and, once again, very short on specifics.

One of the few specific measures that is mentioned is the establishment of a new integrated threat assessment centre to be housed at CSIS. In making the case for this new centre, the authors of the policy note that similar centres have already been established in the United States, the United Kingdom and Australia.

Why did it take the government so long to establish that a centre was needed? How long will it take to actually bring it into existence? How long will it take to implement the concrete measures needed to deal with threats such as SARS and terrorist attacks? Is there a timeline for putting these things in place? If so, what is it?

Hon. Jack Austin (Leader of the Government): Honourable senators, this government took office on December 12, 2003. This is 140-odd days later. I think the government should be commended for the dispatch with which it has brought forward this policy on national security. It is a major piece of work and it has the highest priority in this government's area of responsibility. Senator Meighen should be standing in praise of the work that has been tabled today. As he studies the report, I believe he will find it an impressive contribution to national security policy.

I would answer the question on the timeline by asking Senator Meighen how quickly his party will be in a position to study and accept this policy and give it bipartisan support.

Senator Meighen: Honourable senators, I expect that that question will arise when we form the government. This government seems to be so hell-bent on calling an election that there will not be time to study the policy.

I would point out, honourable senators, that "this government," to which the Leader of the Government refers, has been in office considerably longer than he indicates. The party has been in government for a number of years now. There was a change of leadership of the party, but that was all. I do not think the Leader of the Government can escape responsibility for inaction by putting it on the shoulders of a change of leader, however helpful the leader has been to my honourable friend.

NATIONAL SECURITY POLICY— ADVANCE DISCLOSURE TO SENATORS

Hon. Michael A. Meighen: Honourable senators, I have a supplementary question. Why did the leader refuse last week in the chamber to supply us with information on the new national security policy before it was officially announced? I suppose I know the reason, but then I was surprised to see in the newspaper that Mr. Goodale shared just such information last weekend with his U.S. counterpart, Treasury Secretary John Snow. That is the information I received. It seems to me that the level of detail Mr. Goodale provided to Mr. Snow was such that the U.S. Treasury Secretary was able to conclude that the plan sounded very much like what the United States is doing.

Can the Leader of the Government explain why, prior to tabling in the other place, Mr. Goodale was able to share information on the national security plan with his counterpart in

the United States, when the Leader of the Government in the Senate could not share the information with his colleagues in the Senate?

Hon. Jack Austin (Leader of the Government): Honourable senators, it is an interesting question, particularly in the way it is presented. I have been accused before — not by Senator Meighen, but by one or two of his colleagues — of providing deep background or Political Science 101 lectures. I do not want to do that today, because I know it is not appreciated.

I can say to Senator Meighen that the government's announcement must precede any explanation I would be able to give on behalf of the government in this chamber.

As to the other part of his question, when it comes to matters that are of a cross-border, multilateral nature, it is entirely within standard practice for governments to confer with one another on such issues. I notice that Senator Meighen is an advocate of closer cooperation between Canada and the United States, first with respect to border security, and then with respect to security against terrorism.

I note that the question was a bit facetious and I hope I have not gone on too long with my answer.

TREASURY BOARD

INCREASE IN CONTRACTING PROFESSIONAL AND SPECIAL SERVICES

Hon. Terry Stratton: Honourable senators, advertising management is not the only thing contracted out by the federal government. Could the Leader of the Government advise the Senate as to why, given the 1993 Red Book promise to cut spending on professional and special services by \$620 million, the annual cost of contracting out professional and special services has jumped by one third, from \$4.2 billion in 1993 to \$6.2 billion this year?

Could he also explain why this year's \$6.6 billion bill for professional and special services is up 10 per cent, some \$600 million, over last year's spending?

Hon. Jack Austin (Leader of the Government): Honourable senators, I will seek a specific answer to Senator Stratton's questions.

Senator Stratton: Honourable senators, I would hope to have an explanation for the 10 per cent jump of \$600 million on professional and special services. That amount is quite staggering.

The President of Treasury Board tells us that the government's information systems can no longer tell him how many public servants are employed by the government. Would it be correct to say that the government also has no idea how many people it has working for it on various consulting contracts through what some have called the shadow public service?

Senator Austin: Honourable senators, the answer is the same as to the previous question. I will do my best to obtain the information for Senator Stratton, as I know he is a student of government operations.

Senator Stratton: Honourable senators, I appreciate the answer. I hope it will get to us by the end of the week. I do not need an answer to that comment.

I should like to point out two great successes that the Martin government has had in such a short term in power, since the Leader of the Government was alluding to the fact that he felt we on this side should be applauding its success in other areas.

The Martin government has succeeded in uniting the right into a new Conservative Party, and it has also rebuilt the Bloc Québécois, which had virtually disappeared, and is now likely to win 50 seats.

Senator Austin: Honourable senators, that could be the beginning of an interesting dialogue. I know that Senator Stratton is eager for that dialogue to begin, but I doubt it would have any great value to either of our parties in this chamber. It may have some interest to the Canadian public in that forum at a later time.

• (1440)

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour of presenting two delayed answers to oral questions posed in the Senate. The first response is to an oral question raised in the Senate on March 26, 2004, by Senator Murray, regarding the presence of RCMP constables in dress uniform at a Liberal nominating meeting; the second is a response to Senator Oliver's question in the Senate on March 22, 2004, regarding Royal Canadian Mounted Police investigations into allegations of bribery.

SOLICITOR GENERAL

ROYAL CANADIAN MOUNTED POLICE— PRESENCE OF CONSTABLES IN DRESS UNIFORM AT LIBERAL NOMINATING MEETING

(Response to question raised by Hon. Lowell Murray on March 26, 2004)

The RCMP is a world-renowned organization and a living symbol of Canada. As such, this organization receives a considerable number of requests for the presence of members wearing the Red Serge at special events. Such events include community, national and international occasions as well as those for which members volunteer outside their normal work schedule such as concerts, festivals, sporting events, or dances etc... Each request is assessed to ensure that such participation will uphold the RCMP's image and reputation and meet established RCMP policies and procedures governing such attendance. Given the size of the RCMP, such requests are handled locally and fall under the purview of the Commanding Officer or delegate.

In this particular instance, the two members in Red Serge participated on a cost-recovery basis. A review of our participation at this function has revealed that the RCMP should have declined this request.

The RCMP has taken the necessary steps to ensure that all requests of this nature comply with RCMP policies and regulations.

CITIZENSHIP AND IMMIGRATION

ROYAL CANADIAN MOUNTED POLICE INVESTIGATIONS INTO ALLEGATIONS OF BRIBERY

(Response to question raised by Hon. Donald H. Oliver on March 22, 2004)

According to the RCMP's news release, "the investigation revealed that between 50 and 60 individuals facing IRB hearings had been contacted and offered positive judgements in their upcoming Immigration and Refugee Board (IRB) appeal hearings in exchange for cash bribes."

As the investigation is ongoing, the RCMP has provided little information regarding the 50-60 cases that are mentioned in their news release.

The *Immigration and Refugee Protection Act* provides for the Immigration Appeal Division (IAD) of the IRB to reopen an appeal if the principles of natural justice were not followed. There are three ways to do this:

- CIC/CBSA can file a motion to reopen
- Unsuccessful appellants can file a motion to reopen
- IRB can decide on its own to reopen a file

The IAD is presently reviewing files to identify any evidence of wrongdoing. If it uncovers any evidence of wrongdoing, the IRB will take all measures necessary to ensure that the principles of natural justice are upheld in these cases. The IAD will evaluate the evidence on each motion to reopen, consider the individual circumstances and make a decision according to the law. The final decision to reopen rests with the IRB.

In addition to the IAD review, CIC officials, now part of the Canadian Border Services Agency (CBSA), have reviewed a number of files of criminals who were ordered deported and whose appeal allowed them to remain in Canada.

A small number of these cases have been identified by CIC/CBSA for further investigations which are ongoing. Where evidence of continued criminal activity emerges, officials will take the appropriate steps which may include a new deportation order or a request to the IRB to reopen the appeal.

[Translation]

THE SENATE

TRIBUTE TO DEPARTING PAGES

The Hon. the Speaker pro tempore: Honourable senators, I have the honour of presenting three pages who will be leaving the Senate this year. Adel Gonczi, who comes from Moncton, New Brunswick, has appreciated her experience in the Senate very much. She is certain that the lessons she has learned here will stay with her all her life. She is eager to complete her degree in international politics in December 2004 and hopes to continue her studies and achieve her dream of working in Canada's diplomatic service.

[English]

Sarah Johnson, from Peterborough, Ontario, has thoroughly enjoyed her experience as a Senate page over the last two years. She has completed her third year in the Honours English Literature Program at the University of Ottawa and, upon completion of her degree next year, plans to pursue post-graduate studies in literature.

After two fantastic years as a Senate page, Megan Reid, from Leamington, Ontario, will be undertaking a new set of challenges this fall as a first-year law student at the University of Ottawa. She plans to continue to do volunteer work in non-profit organizations dedicated to social justice.

Hon. Senators: Hear, hear!

ORDERS OF THE DAY

CUSTOMS TARIFF

BILL TO AMEND—THIRD READING—
DEBATE ADJOURNED

Hon. Pierre De Bané moved the third reading of Bill C-21, to amend the Customs Tariff.

He said: Honourable senators, the reasons that justify the introduction of the GPT and LDCT decades ago still remain. The GPT is the general preferential tariff, and the LDCT, the least developed country tariff. The purpose of this bill is to further 10 years, until June 30, 2014, the provisions that we have for the least developed countries and the poor countries of the world.

There are still many countries of the world with low per capita income levels. We were reminded again of this fact in a recent report by the United Nations Commission on the Private Sector and Development, co-chaired by Prime Minister Paul Martin. In the report, it was highlighted that despite great progress over the last 50 years, 4 billion people live today on less than U.S. \$5 a day in the developing world, of which 1.2 billion people live on less than U.S. \$1 a day. Hence, the premise that originally led to the

establishment of preferential tariff programs, namely, that they would encourage an increase in exports that stimulate economic growth and help reduce poverty in the developing world, still holds today.

While many studies have pointed out that preferential tariff programs have supported economic growth in many poorer countries, they still see preferential access to the markets of the developed world as an important instrument to help them improve their development prospects. Therefore, extending the GPT and LDCT for another 10 years reaffirms the government's commitment to promoting the export capability and economic growth of developing and least developed countries. Continuing these two long-standing preferential tariff programs will send a positive message to beneficiary countries that Canada continues to see these programs as an important tool for economic growth in developing and least developed countries.

Finally, by extending the GPT and LDCT Canada will be joining other developed countries in their efforts to assist poorer nations. In this regard, all major developed countries provide preferential access for the developing world and some of them, including the United States, Japan, and members of the European Union, have recently extended their programs.

[Translation]

It is important to note that the advantages associated with the GPT and LDCT are not important only to the developing and least developed countries. Certainly, these measures were created for these countries in particular, but we must not forget that Canadian imports under these programs, estimated at \$9.7 billion, save Canadian consumers some \$273 million.

Therefore, it is obvious that Canadian importers and consumers benefit directly from these tariff programs, which contribute to the economic development of beneficiary countries and also have advantages for Canada.

[English]

Before closing, honourable senators, I should like to quote from the eloquent speech made by Mr. Kofi Annan, the Secretary-General of the United Nations, before our Parliament on March 9. In making reference to the importance of the goals of the 2000 millennium declaration, a joint statement of our ambitions for humanity in the new century, he said:

Reaching the millennium development goals will require a true global partnership in which all developed countries play their parts through increased and more effective official development aid, investment, advice, and policies that ensure a just global trading system.

He went on to add that:

...we must all make certain that poor countries have a chance at development and that they can benefit from globalization.... Developing countries should be given a chance to trade away their poverty...

The comments of Mr. Kofi Annan reflect the underlying principles behind the GPT and LDCT, the extension of which is the focus of Bill C-21. This bill constitutes one substantive measure Canada can take to assist the developing world in achieving the goal of poverty reduction. I strongly urge honourable senators to support this bill and reaffirm Canada's continued commitment to supporting economic growth in the developing world.

• (1450)

I remind honourable senators that Canada stands with all other major industrialized nations, including the United States, Japan and members of the European Union, in supporting the developing world through preferential tariff programs. The advantages are many.

First, Canada will continue a long-standing international practice of providing preferential tariff treatment to goods from the world's poorer nations in order to support their economic growth. Second, by doing that, we will provide certainty and predictability to traders who use them in Canada. Third, continuing these programs will complement Canada's foreign aid policies. Finally, while these programs were mostly conceived as an economic assistance measure to developing countries and least developed countries, they also benefit domestic importers of inputs and consumers of finished products.

Quite simply, a 10-year extension of the GPT and the LDCT would be consistent with past practice, provide a predictable and beneficial business environment to users of the program, and reaffirm a long-term commitment by the government to international development.

In view of all those arguments, I urge all honourable senators to support this bill to allow for the continuation of important Canadian measures that support economic growth and poverty reduction in the developing world.

On motion of Senator Lynch-Staunton, for Senator Meighen, debate adjourned.

PUBLIC SAFETY BILL 2002

THIRD READING—DEBATE SUSPENDED

On the Order:

Resuming debate on the motion of the Honourable Senator Day, seconded by the Honourable Senator Léger, for the third reading of Bill C-7, to amend certain Acts of Canada, and to enact measures for implementing the Biological and Toxin Weapons Convention, in order to enhance public safety.

Hon. A. Raynell Andreychuk: Honourable senators, I rise today to again speak to Bill C-7. When one looks at the title, it almost leads to the conclusion that there are certain changes, most

notably to the biological and toxin weapons convention that will somehow enhance public safety. However, when one looks at the bill itself, as the committee did, the biological and toxin weapons convention is but a small part of a huge and massive change in many of our basic acts of Canada.

Some of the words used to describe Bill C-7 are "complex," "intricate," "omnibus," "pervasive," "groundbreaking," "overarching" and "overreaching." It is, indeed, groundbreaking. The position of the Canadian Bar is the following:

These are very dramatic powers and quite a departure from the normal way of doing things.

It is difficult to understand the full intent and, more important, the consequences of passing Bill C-7, both the intentional consequences and the unintentional consequences that will flow. There is a blending or, in some people's opinion, a muddling of terrorism with criminal law and immigration. This bill also deals with all forms of emergencies respecting safety as well as emergencies respecting security. This bill in no way is limited to terrorist activity. Despite the fact that it was labelled as part of the package of responses necessary for terrorist activity after 9/11 in conjunction with Bill C-36 and Bill C-44, this bill goes way beyond terrorist activity and deals with all risks to Canadian society. It envisions emergency legislation for all kinds of responses, be they natural disasters, manmade disasters, terrorism or criminal activity. It not only envisions terrorism, safety and security risks from around the world, it pinpoints security and safety issues that could be perpetrated by Canadians against Canadians.

Mr. John A. Read, Director General, Transport of Dangerous Goods, Transport Canada, distinguished between responses to safety concerns and response to security concerns. I am sure all parliamentarians and citizens are not aware of this, as the bill is being trumpeted as enhancing security against terrorists.

Honourable senators, we are in a precarious time with respect to our laws, security, privacy and rights. My first dilemma in applying this measure to the present-day situation is that somehow the government has taken the position that if one questions the need for this legislation, one is somehow unconcerned with security and safety issues. It is quite the opposite. Those who are questioning the government with respect to the legislation are more concerned about safety and security and ensuring that the system actually works.

Mr. Ziyaad Mia, representing the Muslim Lawyers Association and the Coalition of Muslim Organizations, stated in his opening statement to the committee:

...the umbrella of all this since September 11, 2001 is that we are living in a culture of fear. That is not really a good way to run a society, to run yourself, to run your household or to run a government or to write law. Bill C-7 takes us away from the rule of law and responsible government and takes us to a society motivated by fear and characterized by reaction. This is evident from the government's sales pitch on Bill C-7.

Honourable senators, the approach that our government is taking is simply bad public policy. We have gone from not putting sufficient investment into our protection prior to September 11 to a very reactive response instead of a proactive stance. One only needs to go back to the Senate's own study on security and intelligence prior to 2001 where alarm about security was raised. There was minimal response. Now we have Bill C-36, Bill C-44, Bill C-7 and other significant bills that have amended the Criminal Code in response to terrorist activity. It is time to assess whether these mechanisms are correct and working. It is time to assess whether the powers and tools given to the Government of Canada have produced results. We know that Bill C-36 has led to charges recently being laid. However, we also know that a reporter, Juliet O'Neill, has been trapped under the consequences of that legislation.

We know that to date the government has not had the correct technology, finances or trained manpower to implement the various pieces of legislation. The so-called Smart Border Initiative of 20 points is yet to be delivered. The Auditor General's report of March 3, 2004, graphically illustrates the shortcomings. Our own National Security and Defence Committee has pointed out a series of major deficiencies. In the end, it will not be for the lack of tools we have given the government if security fails; rather, it will be that the government, in spite of sufficient targeted information and intelligence, has not taken the right direction.

It is instructive to note that the department and the minister are deeply sensitive about accountability because more than once Ms. McLellan in her testimony before the committee stated: "I would not want to be in a position to have to explain that to Canadians when asked."

Again, in answer to a question about the bill and a particular clause, Ms. McLellan said that the question from citizens would be: "...what in God's name are you doing in terms of the safety and security of Canadians?" Rather than having a reasoned approach, educating the public about the limits that a government can take to ensure and guarantee safety, the minister is in fact attempting to anticipate every known security and safety risk thinking that this would "stop normal critiquing of the government as to what they are doing."

• (1500)

Another interesting point was raised by Mr. John Read, the Director General, Transport of Dangerous Goods, Transport Canada, in answer to a question on why the time frames on interim orders were as stated. He said:

The time frames that we have are based, I guess, on the fact that we recognized during the events of September 11 that the people who are experts on the emergency are fully immersed in the emergency. I was one of those people; and one of the best things that happened to us was that the deputy said: "We did not have to answer all these questions we normally get by hand, and that was a good five day period — we were fully occupied."

He went on at another point in his testimony to say:

If you have seen the poor fellow who is doing mad cow disease, and some of those other people who are terribly overworked, they do not have time to withdraw to write out this careful reasoning and so forth. We had to have a period of time before we had to go to the Governor in Council with all of the argumentation written down and all the proper formats....

Ms. Bloodworth further stated:

It is clear that ministers are accountable in any event.

Honourable senators, that is the rub. Get as many tools, get as much authority, reduce the accountability, and if you are a civil servant it is easier to justify it to a minister, and if you are a minister it is easier to justify it to Parliament or the public. Therefore, it seems that Bill C-7 has less to do with ensuring our safety and security than in a *modus operandi* of a government who would circumvent access to information, as they have, reduce Charter of Rights scrutiny, as they have, reduce privacy, which they have, and give themselves such sweeping powers that they cannot be reasonably challenged in court. In fact, Ms. McLellan, in answer to Senator Merchant's questions about Canadian perceptions stated:

In fact, some of the recent polling work, and that is all it is, you can take it for what it is, would indicate that a significant number of Canadians do not believe the last polling from Ekos indicating that more than one third of Canadians did not believe that we had gone far enough in protecting their security.

Contrast this with Ms. Jennifer Stoddart, our Privacy Commissioner, who stated in answer to Senator Stratton:

At the conference hosted by Minister Denis Coderre, I participated in my then capacity as Quebec's Privacy Commissioner. We had a very interesting presentation by a public opinion polling firm that showed us exactly how public opinion does vary given the questions asked. We cannot really say. We certainly did not conclude that Canadians are ready to jettison their privacy rights just in case they have marginally more security. Canadians are far more critical than that. However, it depends on exactly what questions they are asked.

A further point to make is that while the government follows reactions to the last terrorist situation, it was ironic that the committee was meeting at the time of the Spain metro killings. We continue to deal with aeronautics, but what about the rest of the transportation system within Canada? We have been forced to look at our borders and our ports, both from critics within and without. We have as yet to get sufficient technology in place to be able to deal with stolen and lost passports as part of the analysis at the border points, to name just one issue. The bill proceeds on the road for more tools when it is clear that the ones they have are not implemented, nor financed, nor technologically sound.

There are, however, some valuable sections in the bill. For example, the adherence to the convention on biological and toxin chemicals is necessary and would have been worthy of an independent act through Parliament. There are other provisions to deal with air hoaxes and to curtail the manufacture, testing, acquisition, possession, sale, storage, transportation, importation and exportation of explosives and the use of fireworks. Part 7 is certainly worthy of passage. Also sections dealing with funding for port authorities are necessary and not in dispute.

I now want to point out some of the real problems with Bill C-7, which are not insignificant. While there has been great discussion about aeronautics and the need to ensure passenger safety and to prevent further air attacks, I do not believe that the average Canadian understands that it was Bill C-44 — the one we have already passed — wherein information about international flights was authorized. Bill C-7 targets information about domestic flights and the sharing of this information with intelligence and police and then shared again through protocols, arrangements and measures with other countries which then, despite giving verbal assurances or otherwise to Canadian authorities, have the use of information about Canadians.

In light of the time constraints, I will not try to go over some excellent points made by Senator Spivak in her speech and other points raised by other senators both here in the chamber and in committee. Privacy Commissioner Jennifer Stoddart objected to the bill on two bases. She stated:

First, the legislation is far too broad. Second, to use a word we all understand, this bill co-opts private sector organizations by pressing them into service in support of law enforcement activities. Clause 5 of this bill adds a new provision to the Aeronautics Act, section 4.81, empowering the Minister of Transport or authorized department officials to require certain passenger information from air carriers and operation of aviation reservation systems. The bill would also add a new section, section 4.82, to the Aeronautics Act authorizing the Commissioner of the RCMP and the Director of CSIS, to require air carriers and operators of aviation reservation systems to provide them with information about passengers. This information would be used and disclosed for transportation safety and national security purposes directly related to the legislation. As well, the information would be used for the enforcement of arrest warrants for offences punishable by five years or more of imprisonment, a purpose that has no direct connection to this legislation.

She further stated:

One of the basic fair information principles is that information collected for one purpose should be used for that purpose only.

She recommended that the list of offences for which information can be disclosed to execute a warrant would be and should be significantly reduced.

I quote Ms. Stoddart when she said:

One of the things we are concerned about — and I allude to it in my prepared remarks, which has impressed the Office of the Privacy Commissioner over the years that we have been following this because this legislation, for being so necessary, has not yet passed some two and a half years later — and would like to draw to your attention is that we have come across no cogent arguments, no organized research, no brief, not any kind of coherent information or arguments in support of such broad powers being given to our surveillance and police officers.

One would expect that there would be some serious analysis, statistics or studies put forward to show why, as Commissioner Zaccardelli just said, if low-level crime leads you into terrorists, how often it leads you and why it would be absolutely necessary to monitor all kinds of things. My staff found none of this in all their very thorough research. Indeed, from the quote that the former Solicitor General made, it sounds like, "Well, while we have powers, why not tack on other things and nab other people?" That is a very dangerous way to approach law enforcement in our country. We do not at all want to minimize the importance of apprehending people for whom there may be search warrants for indictable offences and which may or may not merit imprisonment for five years. We say that this takes a well thought-out law enforcement strategy that looks into prevention, into what happens to the victims and into the whole broader issue of that particular thing, not just nabbing people, because now we have the powers, thanks to technology, to run huge lists against all kinds of people. This is a very dangerous precedent in blurring the boundaries of the use of criminal law.

• (1510)

In other words, as Minister McLellan said, if the police, while tracking, were to come across an outstanding warrant for a serious offence, the public would want that person arrested. As Ms. Stoddart said, this further indicates that there would be an inevitable drift to use this mechanism for criminal law purposes while veering away from the essential data scanning for terrorism, which is more difficult. We would have another tool, not contemplated by criminal law, to deal with criminals. I certainly do not accept Commissioner Zaccardelli's point of view that any and all criminals could be tomorrow's terrorists; that brush is too broad. Think about who is being imprisoned today in our system: We know that Aboriginals are oversubscribed and we know that minorities are tapped. I can appreciate that law enforcement officers do not overlook any link, but, to be quite frank, when our criminal law system is overrepresented by minorities, I do not want to draw the equation that these people could be next year's terrorists. While it is legitimate to look at organized crime, gangs and money laundering, such an unwarranted sweep by the government should not be tolerated, as it would be under Bill C-7. There is a natural tendency and pressure between those who advocate rights and those who are given the responsibility to protect. That is where our fine balance of criminal law has gone. To now move the marker without data and research would be unwarranted and unnecessary to the extent that the government has proposed.

Allow me to summarize some of the concerns of the Air Transportation Association of Canada and specific carriers whose representatives came before the committee. Their chief concern with the proposed legislation lies with proposed sections 4.81 and 4.82, which would empower the Minister of Transport, the Director of CSIS and the Commissioner of the RCMP to require any operator of an aviation reservation system — our travel agents and our air carriers — to provide, within the time and manner specified, information concerning persons onboard or expected to be onboard the aircraft. This seems reasonable if we were looking for information. However, I remind honourable senators that this information would be required for every flight in Canada and would be shared with external sources of intelligence agencies. Mr. Everson said:

The legislation specifies only information that is in the air carrier or operator's control, but, in fact the testimony that you have been hearing from state officials makes it clear that they plan to oblige airlines to gather much more information than we currently do. The crux of our argument lies therein. The security agencies want to go fishing for criminals in an ocean of our passenger population — that is fine. We support them doing that; that is their job. However, the net that they want to use does not actually exist right now. The wording of this legislation will mean that airlines will be compelled to build that net and do the fishing at our expense. We are asking the Senate to protect us from that situation. Domestic airline data is not like international airline data with which we have a great deal of familiarity. It is not today in a form that is likely to be very easily used by security agencies.

He continued:

I want to make it clear that many airlines in Canada do not use electronic reservation systems. Most use manual systems and are not able to transmit passenger data to the RCMP or anyone else.

He then indicated that they would be obliged to execute a public duty, and because it is a public duty, they indicate it should be paid for by the public and not by this fragile industry that is not equipped today to do so. Security screening at the airports was taken away from the airlines and paid for publicly. This should also be so.

Honourable senators, we will be ahead of the curve if we provide this information. One can only piece the material together and indicate that this request in Bill C-7 is the result of attempting to combine the concept of Computer-Assisted Passenger Screening II in the United States. While CAPS-II is a seamless flow of information about all passengers and an overarching tracking system, it is neither technologically sound nor in place. As we speak, Congress is holding up regulations in response to the industry and to others. It is one thing to say that we will have a comprehensive system, but it is another thing to actually produce it. The United States does not have a viable working CAPS-II; yet, we will force the struggling airline industry and an unsuspecting public to provide all this material, although we will be uncertain as to how and where it will be housed after it leaves Canadian soil. For that matter, we are uncertain as to how

it will be particularly housed in Canada because this subset of information, which will come to match up with the overall terrorist legislation, will not be subject to much public scrutiny; and it is not in place at present.

It is also interesting to know that Europe is not implementing this system but is looking at a pilot project. In terms of security, this is a more sensible approach in light of concerns. To be dragged into a system to try to prove that it works certainly sounds like something that happened in the matter of gun control — the gun registry. Remember, it is not just sharing information with the United States but potentially with all governments.

Honourable senators, this information is far wailing and is just the tip of the iceberg. Once data collection begins, it tends to broaden and the information in the hands of competitors and of foreign countries becomes mind-boggling.

Honourable senators, the main thrust of my concern is directed to interim orders that circumvent normal procedures and give sweeping powers to ministers to act and circumvent normal regulatory practices. As I stated earlier, these interim orders will give broad, sweeping, unfettered powers to ministers and, in at least one case to a deputy minister, the right to make emergency orders. I remind honourable senators that these interim orders are not just for terrorist situations but also for all safety and security measures. For example, these interim orders are allowed under the Health Act, under the Hazardous Products Act and under seven other acts. The difficulty is not that there is the power to make interim orders. The difficulty is that this proposed legislation has been billed as terrorist legislation but in reality gives interim order rights on public safety issues that are totally unrelated to terrorism or criminal activity. Therefore, it will affect businesses, individuals and their livelihood in a way that has not been done in the past. Two previous bills gave powers to a minister, but these were widely publicized and were the result of negotiations, discussions and public awareness after a disaster or a spill had occurred. In this legislation, the government's only justification to date has been Minister McLellan's and Minister Valeri's positions that they have contemplated what might happen and they want all the powers to react.

What about all the things they have not contemplated? It is instructive in the interim order provisions that they are taking such broad sweeping powers for anything in the future that may make them vulnerable. Definitions are not defined in the bill. I remind honourable senators that if a minister were to believe that immediate action were required to deal with a significant risk, direct or indirect, to health or safety, that would be the only requirement. The bill does not say that the minister would have to have reasonable belief and it does not say that the minister would have to use any criteria for this analysis.

The minister could henceforth act and would have 14 days to bring it to the Governor in Council and cabinet. No doubt the 14 days would be for the purpose of preparing an appropriate response to, or defence of, the use of the interim order. Thereafter, the government would approve it in one day and on the twenty-third day, it would go to Parliament to be filed. However, as we know from the scrutiny of regulations, this would be an overwhelming task; and while eventually there would be

scrutiny, it would be after the fact. One cannot go to court — and I want to make this point since Senator Day raised it — to question the appropriateness of the order. One can conceivably go to the court on a ministerial review if the precise technicalities were not followed, say, 14 days was extended to 15 days, or if there was a lack of bona fides on the part of the minister. However, no one is alleging that. The powers are so broad and so sweeping that great damage could be done to individuals and industries in Canada in a 14-day period. Should an interim order be invoked affecting Canadians, they should be able to question the validity of it on its merits.

• (1520)

In my second reading speech, I stated that the principle of fundamental justice must apply and that unfettered or unstructured discretion to a minister is not consistent with the principle of fundamental justice. In the *Parker* case, which I quoted in my second reading speech, the court questioned the absolute discretion based on a minister's opinion, and, I might add, that was a rather narrow discretion. In that particular case, where an exception is necessary for medical purposes, the pertinent phrase was not defined in the particular act.

Here we must deal with the same issues. The interim orders are permissive, that is, the minister "may." The minister has absolute discretion on undefined terms the only restriction being that it must be contained to the regulations that are enumerated. Honourable senators, I would invite you to read those regulations to see how wide and sweeping they are.

Citizens have a right to know what action is being taken against them. Vagueness serves confusion, and people will shy away from exercising their freedoms if the consequence is facing punishment. This uncertainty and fear nurtures inhibition rather than free action; and, honourable senators, you will agree that this is not acceptable in a democratic society.

Many of these interim orders, as Mr. Read told us, would deal with safety concerns, rather than security concerns. This is not terrorism legislation; this is an overarching concentration of power in the executive with only post factum scrutiny by Parliament, if at all, if normal routines of the past apply.

In essence, what is occurring is an avoidance of regulations by the use of emergency power, or at least that possibility is real. One sensed that in hearing Mr. Read's comments that the bureaucracy is overtaxed and overburdened, justifying the action. No doubt, BSE, avian flu, SARS and terrorism are serious issues, but is that a reason to abrogate our rights and give such sweeping powers to a minister or a deputy minister, unchecked in any real way? Indeed, their broadness raises a constitutional question as to their validity. Honourable senators, I request that the crux of this issue be dealt with fully, and that is the constitutionality of this bill.

The other points that I raised are public policy issues. This real, constitutional issue has not been addressed. While we had a panel and we did talk in general public policy terms, there was simply

no time and no witnesses to deal with the constitutionality of the interim orders.

Senator Day indicated he would have appreciated hearing from the Canadian Bar Association on these orders. In fact, the Canadian Bar Association filed a long submission but we did not have time to get to it, nor did we quiz them on it because of the time element. Indeed, I was told only prior to voting that witnesses who could have answered constitutional questions before the committee were unavailable. Had I known that, I would have either asked that other witnesses be called or I would have contacted those particular witnesses who were given short notice of the hearing. I believe that was unfair.

I further suggested, since we were adjourning at that time for a two-week recess, that we could hear these witnesses on the Tuesday morning that the Senate was to resume. In fact, the bill could have been reported that afternoon. The majority denied this request. We are faced with an avoidance of a regulatory base that could be constitutionally unsound. There are experts in Canada who can comment on this, and it would be with little inconvenience to the government after so many years of this legislation to hear from those witnesses. People's lives, their livelihood and their communities lie in the wake.

It is not good enough for the government to respond by saying that, if they have concerns, they can test them in the courts. Minister Cotler fairly recently pointed out he was shocked at the number of cases citizens had laid against the government. Surely, in a democracy, the soundness of legislation is paramount; and that is the precise responsibility of the Senate. If a question is raised, it should be addressed. In this case, it has not and it can be easily done.

Honourable senators, by utilization of the interim orders, we are exempting the application of sections 3, 5 and 11 of the Statutory Instruments Act. This does not allow for the matching of interim orders to charter implications, which is done in the case of regulations. Canada is a country that prides itself on its Charter of Rights and Freedoms, and particularly this government. Therefore, when it takes away the scrutiny of the Charter of Rights and Freedoms before regulation, and if this interim order can be used as a substitute for regulation, surely we should determine its constitutionality.

Mr. Potter, representing the Canadian Bar Association, stated:

Our view is that it is very hard to see that it is necessary to pass these new, quite dramatic emergency powers. I know of no situation in which Canada has had some kind of obstacle in putting together an emergency response in a legal way.

I believe the government's own policy statement today deals with a framework of implementation and not further legality.

I would remind honourable senators that the Muslim Lawyers Association and the Coalition of Muslim Organizations, appeared before the Senate hearing and stated:

Many of the problems experienced by Muslim-Canadians, from minor inconvenience or embarrassment to outright torture, were facilitated or exacerbated by faulty intelligence, lack of oversight and the complete absence of accountability. Take, for example, the thousands of "friendly" interviews that many were subjected to in the aftermath of September 11, 2001. In many cases, otherwise law-abiding citizens were subjected to humiliating interrogations about their personal lives, religious devotion and practice, personal beliefs and political beliefs. The threshold to trigger such interrogation was simply so low that many Muslim Canadians felt that being Muslim alone was sufficient to warrant the scrutiny of the state and all that it entails.

Therefore, honourable senators, if the government still persists on proceeding, we should at least be reasonably assured that the interim orders are constitutionally valid.

MOTION IN AMENDMENT

Hon. A. Raynell Andreychuk: Therefore, honourable senators, I move, seconded by Senator Stratton:

That the Senate not now proceed to third reading, but that the Senate refer Bill C-7 to the Standing Senate Committee on Legal and Constitutional Affairs for analysis on the constitutionality of Bill C-7.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Anne C. Cools: Honourable senators, I listened to Senator Andreychuk with great interest. I happened to serve on a committee with her, and I am always impressed by her clear-mindedness.

• (1530)

I have two questions, one of which is a follow-up question on something Senator Andreychuk said. I think the honourable senator said something to the effect that large numbers of our inmate population are members of minority groups. The honourable senator described a few other categories.

Does the honourable senator happen to know what percentage of these people are, say, from the labouring classes — the blue-collar workers or the working classes of this land? Does the honourable senator have any idea of that?

Senator Andreychuk: Honourable senators, I do not have up-to-date statistics. As Senator Cools well knows, in the Standing Senate Committee on Legal and Constitutional Affairs we continually struggle to get Statistics Canada to come forward with such information.

The point I clearly wanted to make is that not everyone who commits a crime in Canada is a terrorist.

If we look at it that way, I used a couple of examples. I could have mentioned blue-collar workers or anyone else. The threshold is imprisonment for five years or more. There is public mischief in there. There are all kinds of things unrelated to terrorism.

I tried to draw the line that the police are absolutely correct to say that crimes involving gangs or money laundering can be components of terrorism. However, surely, our entire criminal system is not geared to saying that everyone who enters the criminal system comes out a terrorist. That was the point I was trying to make.

I appreciate that I may have stated this concept too narrowly. If I did, I should not have done so.

Senator Cools: That is one of the problems with the scripting of this so-called terrorist legislation, and it leads me to my next question.

With the onset of the need for all of this new legislation, there were many opinions as to how to approach the legal challenge of structuring and scripting the proposed new law. I have never understood why the drafters proceeded this way because the term "terrorist" is filled with problems. To my mind, it is riddled with problems.

Does Senator Andreychuk know anything about this? For example, there was a body of opinion on the table during the drafting of the law. Instead of trying to create new offences called "terrorist" and a new concept called "terrorist," there was a body of opinion that said go back to common law and to historical traditional law and build on concepts that were well understood for centuries. For example, in the events of September 11, vessels were attacked. One could have looked to crimes of piracy. In other words, bring the laws of piracy into the current context. For example, piracy on the sea is different from piracy on land or in the air, if honourable senators remember the difference between the pirates and the wreckers and so on. The interesting thing about the words "piracy" and "pirate" is that there is not much doubt about what those words mean, whereas there is a lot of doubt as to what words like "terrorist" mean.

The mere fact that we are being told that every criminal could be a terrorist to my mind proves Senator Andreychuk's point in very clear and poignant terms.

Does Senator Andreychuk know anything about the body of opinion that wanted the law to go in the direction of clearer, more comprehensive and more understandable words that were already known to the public rather than this? I understand that the drafters in our country wanted to go the new, trendy route rather than the historical common law follow-the-thread-of-the-law route.

Does Senator Andreychuk know anything about that? If this bill were to go back to committee, perhaps these questions could be looked at. The word "terrorist" has many interpretations. In fact, to some people terrorists are heroes.

Senator Andreychuk: I can only answer from the perspective of some of the other work I have been doing on anti-terrorism legislation.

Let us go back to Bill C-36. We, the United Nations or anyone else could not really define terrorist or terrorism. The closest international thinking could come was to "terrorist activity." My complaint with Bill C-36 is that we adopted the British definition more closely than any other. The British definition had historical reasons within Britain, and not here. It goes back to the IRA, et cetera.

My concern with this bill does not centre around terrorist activity. I will concede that the government needs to do certain things, but certain aspects of the bill are fine. For example, the international convention is fine.

Under the guise of a bill introduced weeks after 9/11, and in response to 9/11, a whole bunch of legislation was put together. I commend the government for that, because we did not know what the threat was. As Ms. Stoddart, the Privacy Commissioner of Canada, said, two and a half years later we have a lot of experience and we should put our resources where they can be of some benefit and success. That is to say, put them into beefing up intelligence, beefing up our borders, working in harmony and not casting our net further and further into legalities that lead to trouble.

There is a real risk of blending criminal law with terrorist law. This bill started out as a response to terrorist legislation. It has been taken off the books and then brought back a number of times.

In reading Bill C-7, one discovers that it covers everything under emergency orders, a shortcut so as not to have to bother going through regulations — that democratic process where one has to account. It is much easier not to have to account.

My problem is that the government is circumventing Parliament and proper processes that have taken years to establish, with not much benefit to our protection against terrorism. The government would be best to talk about the administrative and policy frameworks. We have waited two and a half years for that. They could talk about resources, so that the border authorities would not have to say, "Certain things will happen in July, but we do not have the money to implement what is already on the books."

We should not mislead the public by saying that Bill C-7 will make us safer. It is a minor tool at best. It invades and jeopardizes so many other things.

I am pleading that the government reduce it to terrorism only in this bill; or, alternatively, if the entire 100 pages is necessary, then please ensure that this intrusion that has taken us so long to build safeguards around is constitutionally sound.

Hon. Joseph A. Day: Honourable senators, if there are no other honourable senators who wish to ask questions of the Honourable Senator Andreychuk, I should like to speak briefly on her amendment.

I would urge honourable senators to vote against the proposed amendment. The issue it raises as to which committee the bill should be referred was dealt with at second reading. It was referred to the Standing Senate Committee on Transport and Communications and an excellent job was done.

The Hon. the Speaker *pro tempore*: Are honourable senators ready for the question?

Some Hon. Senators: Question!

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion in amendment of the Honourable Senator Andreychuk?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker *pro tempore*: Will all those honourable senators in favour of the motion please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore*: Will all those honourable senators opposed to the notion please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker *pro tempore*: In my opinion, the "nays" have it.

And two honourable senators having risen:

The Hon. the Speaker *pro tempore*: Is there agreement on the bell?

Hon. Terry Stratton: The agreement is 30 minutes.

Hon. Rose-Marie Losier-Cool: There is to be a 30-minute bell.

The Hon. the Speaker *pro tempore*: Is it agreed, honourable senators, that there be a 30-minute bell?

Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore*: The vote will take place at 4:10 p.m.

Call in the senators.

• (1610)

Motion in amendment negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Andreychuk
Atkins
Cochrane
Comeau
Di Nino
Eyton
LeBreton
Lynch-Staunton

Murray
Nolin
Oliver
Prud'homme
Spivak
St. Germain
Stratton
Tkachuk—16

NAYS
THE HONOURABLE SENATORS

Adams
Austin
Bacon
Banks
Biron
Bryden
Callbeck
Carstairs
Chaput
Christensen
Cook
Corbin
Day
De Bané
Downe
Ferretti Barth
Finnerty
Fitzpatrick
Fraser
Gauthier
Gill
Graham
Harb

Hervieux-Payette
Hubley
Jaffer
Joyal
Kroft
Lapointe
Lavigne
Léger
Losier-Cool
Maheu
Mercer
Morin
Munson
Pearson
Phalen
Ringuette
Robichaud
Rompkey
Sibbeston
Smith
Stollery
Watt—45

ABSTENTIONS
THE HONOURABLE SENATORS

Cools—1

The Hon. the Speaker *pro tempore*: Resuming debate on third reading.

Senator Stratton: Honourable senators, I should like to raise a point of order with respect to the vote. According to rule 68(1):

A Senator shall not vote on any question unless the Senator is within the Bar of the Senate when the question is put.

I believe Senator Harb was not within the bar when the question was put, and he voted.

Hon. Mac Harb: Honourable senators, that is exactly the point. I was within the bar before the question was completed. My colleagues here could testify to that effect.

Senator Stratton: The point is that the rule states that a senator must be within the bar when the question is put — not when the question ends but when the question is put.

This is the second time Senator Harb has done this. For everyone's sake, I remind honourable senators that they are supposed to be within the bar when they vote, not passing the bar. This is not tennis, after all.

Senator Harb: Honourable senators, with all due respect, this is not the second time. The first time, even though I was within my right as a senator to vote, I decided not to vote myself. A colleague stood up in the house and indicated that I could have voted had I wanted to exercise that right.

If the rules of this house are similar to those of the other House, I would be able to vote if the entire question has not been put.

It is up to you. You can consult the rules in any event.

Senator Cools: Honourable senators, yes, something may have happened, but there is enormous uncertainty. I propose that we not treat this matter as a point of order and not ask Her Honour to rule on it. I suggest that we leave the matter to its own resolution over the next many weeks.

Senator Stratton: Honourable senators, I would agree, with one proviso because this is the second time that Senator Harb has done this. I would ask, as I have asked other senators with respect to language in this chamber, that the honourable senator respect the protocol within this chamber and assure us that he will not do this again. If he does it again, I would ask that he please not vote.

Senator Harb: Honourable senators, I do not understand why my colleague is making a big deal out of nothing. I did not vote the last time this happened. This is not the second time. I think he owes an apology for stating something that is not a fact, which the record will show. An honourable senator on this side of the house stood up and indicated that I could have voted at that time but I chose not to do so because I was not certain of the rules. However, after consulting the rules, I came to the realization that, yes, I was within my rights.

The Hon. the Speaker *pro tempore*: Order! I should like to remind honourable senators that rule 68(1) states:

A Senator shall not vote on any question unless the Senator is within the Bar of the Senate when the question is put.

Resuming debate on Bill C-7.

Some Hon. Senators: Question!

The Hon. the Speaker *pro tempore*: Are senators ready for the question?

Hon. Pierre Nolin: I move adjournment of the debate.

The Hon. the Speaker *pro tempore*: Honourable Senator Nolin, seconded by Honourable Senator Tkachuk, moves that the debate be adjourned to the next sitting of the Senate.

• (1620)

Honourable senators, is it your pleasure to adopt the motion?

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

The Hon. the Speaker *pro tempore*: Will those honourable senators in favour of the motion please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore*: Will those honourable senators opposed to the motion please say "nay"?

Some Hon. Senators: Nay.

And two honourable senators having risen:

The Hon. the Speaker *pro tempore*: Honourable senators, is there an agreement as to the bells?

Senator Stratton: If I may, it cannot be in one hour because we have a bell at 5:15 p.m. I would ask that the vote be taken at 5:30 p.m., with the rest of the votes.

Senator Losier-Cool: We are agreed that this vote be held at 5:30 p.m., following the other votes.

The Hon. the Speaker *pro tempore*: The vote will be taken at 5:30 following the other vote.

Senator Cools: I would point out to Her Honour that, when the whips rise and make a proposal, that proposal is just words they have spoken until this chamber agrees to the substance of their proposal. I have raised this matter countless times. What Senator Stratton and Senator Losier-Cool have just said is not binding on this chamber unless there is agreement of this house, usually by a short question, to cause this chamber to agree. This continues to occur, and I have been calling attention to this matter again and again.

The Hon. the Speaker *pro tempore*: I cannot hear you.

Senator Cools: I will say it again.

The Hon. the Speaker *pro tempore*: Honourable senators, is it agreed that the vote be held at 5:30 p.m., following the other votes?

Some Hon. Senators: Agreed.

Senator Cools: I was going to say "no," but I will let it go.

Debate suspended.

AGRICULTURE AND FORESTRY

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Leave having been given to revert to Notices of Motions:

Hon. Donald H. Oliver: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I move:

That the Standing Senate Committee on Agriculture and Forestry have power to sit at 6:00 p.m. today, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Eymard G. Corbin: May I ask the honourable senator why he is asking leave for his committee to sit while the Senate may be sitting?

Senator Oliver: Honourable senators, the committee is to hear a witness from British Columbia tonight. If the Senate is to sit until seven, eight or nine o'clock, that would cause some difficulty. We are asking for leave to be able to hear that witness.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

FISHERIES AND OCEANS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Leave having been given to revert to Notices of Motions:

Hon. Gerald J. Comeau: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I move:

That the Standing Senate Committee on Fisheries and Oceans have the power to sit at 7:00 p.m. today, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Eymard G. Corbin: Honourable senators, would Senator Comeau tell us when is the regular sitting time for his committee?

[Translation]

Senator Comeau: Honourable senators, the Standing Senate Committee on Fisheries and Oceans is scheduled to meet at 7 p.m. I am asking for authorization in case the Senate is still sitting at that hour. Extremely important witnesses are to appear before us this evening, including the Minister of Fisheries and Oceans, the parliamentary secretary, the associate deputy minister, and the acting assistant deputy minister, fisheries and aquaculture management. We will be discussing a very important subject: "The Policy Framework for the Management of Fisheries on Canada's Atlantic Coast."

Consequently, I want to ensure that the committee will be able to sit at the designated time.

[English]

Hon. Anne C. Cools: Honourable senators, I was struck that Senator Comeau, in response to Senator Corbin, said that the regular meeting time of his committee is seven o'clock. What information does Senator Comeau have that I do not have that we might be sitting tonight at seven o'clock?

When I look at the Order Paper, frankly, I can see a dearth of government business. We have been told that we may be sitting well into May before the election is called. In my view, we should not be sitting at all. What information does Senator Comeau have that I do not have that we may be sitting this evening at seven o'clock, doing business, when there is no government business before us? As a matter of fact, the Senate should adjourn and wait for the Prime Minister to ask the Governor General to call the election.

I refuse to say that the Prime Minister calls the election. The election call is a prerogative act of Her Majesty.

If the honourable senator would share that information, then we would all have the same information and we would be inclusive and democratic.

Senator Comeau: Honourable senators, my motion takes advantage of the fact that we had asked permission of the Senate to revert to Notices of Motions. I am taking advantage of the timing of the motion as proposed by the Honourable Senator Oliver. Quite often on Tuesdays we do sit past six o'clock. I am simply taking advantage of the opportunity.

Senator Cools: The honourable senator was asking that the Senate suspend its rules to oblige his motion on a whim. He is saying that there is nothing concrete before him.

[Translation]

Hon. Jean Lapointe: Honourable senators, for your information, there will be a Canadiens game on television starting at 7 p.m. If the Senate decides to sit at that time, I expect that many senators will be absent.

[English]

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

PUBLIC SERVICE COMMISSION

MOTION TO APPROVE APPOINTMENT OF MARIA BARRADOS AS PRESIDENT OF THE PUBLIC SERVICE COMMISSION— REFERRED TO NATIONAL FINANCE COMMITTEE

Hon. Bill Rompkey (Deputy Leader of the Government),
pursuant to notice of April 22, 2004, moved:

That in accordance with subsection 3(5) of the *Act respecting employment in the Public Service of Canada*, chapter P-33 of the Revised Statutes of Canada, 1985, the Senate approve the appointment of Maria Barrados, of Ottawa, Ontario, as President of the Public Service Commission for a term of seven years.

He said: Honourable senators, in accordance with subsection 3(5) of the Act Respecting Employment in the Public Service of Canada, chapter P-33 of the Revised Statutes of Canada, the Senate shall approve the appointment of Maria Barrados of Ottawa as President of the Public Service Commission for a term of seven years.

Honourable senators, Ms. Barrados has been acting as President of the Public Service Commission since November 20, 2003. It is important that we now proceed to confirm her in this position.

The Public Service Commission is responsible for safeguarding the values of a professional public service and a merit-based system of appointments to and within the public service through the administration of the Public Service Employment Act. The mandate of the Public Service Commission is to make appointments based on merit and to conduct related investigations and audits.

• (1630)

The President of the Public Service Commission serves as chief executive officer of the Public Service Commission and works to assure strategic partnering within the service on human resource management issues.

Ms. Barrados previously held the position of Assistant Auditor General, Audit Operations, at the Office of the Auditor General of Canada, a position that she held from December 1993 until she was appointed as Acting President of the Public Service Commission. She joined the Office of the Auditor General in 1985 and held positions of increasing responsibility prior to her appointment with that office.

Ms. Barrados has played and will continue to play a strong leadership role in implementing the government's public service modernization agenda and has demonstrated her commitment to making the Public Service Commission a true champion of the merit principle.

I ask all honourable senators to support this motion.

Hon. Anne C. Cools: Honourable senators, I am beginning to pay a little more attention to these motions in respect of approving appointments, particularly in the wake of the Radwanski matter. I remember when Mr. Bruce Phillips was appointed Privacy Commissioner. There was a fair amount of disagreement and controversy over that particular matter. These approvals deserve some true debate. The motion is worded in such a way that the conclusion is expected, so it is difficult for people to disagree other than by an adverse vote.

I am wondering if there will be a debate on this motion. If there is to be a debate, could the deputy leader give us some information about this situation? For example, I should like to know how Ms. Barrados was selected and chosen in the first place. I should like to know the criteria and the qualifications that were enumerated in the business of making the choice even to bring her name forward for appointment. I should like to have some other basic information. For example, how many other candidates were considered? I should like to know her qualifications in general. Then, I should love to know a little bit more about the criteria that would have been applied to select her over and above all of the other candidates.

Prime Minister Martin has made commitments to more openness and transparency in the selection of appointees. Therefore, could the deputy leader give us a more fulsome explanation and not be so frugal in his words in telling the Senate why we should approve this motion?

Hon. Lowell Murray: Honourable senators, I have a few comments and questions. It occurred to me that perhaps my friend would like to take them and any other comments on board and then reply.

Senator Cools: I would prefer to put my questions sequentially. I asked a few questions. I do not doubt the deputy leader's capacity of memory, but I have a suspicion that his answers might cause me to ask another question.

Senator Murray: The first question Senator Cools asked is whether we would have a debate. A motion has been put to the house and the honourable senator proposing the motion has made his speech. That would normally open the debate. My friend the Honourable Senator Cools has asked some questions. I do not have a lengthy intervention to make. A couple of items occurred to me in the course of Senator Rompkey's speech and indeed in the course of Senator Cools' questions. It is entirely up to the deputy leader whether he wants to speak now in response to Senator Cools and later in response to me and still later in response to someone else, or whether he wants to follow the normal practice of debate.

Senator Prud'homme: Normal practice.

Senator Rompkey: Honourable senators, there have been some consultations across the aisle. The agreement we came to was that matter would best be handled by the Standing Senate Committee on National Finance. It would be our proposal to move the motion to that committee. That committee would have adequate

time to answer all the questions for which we do not have answers in the chamber at the present time. I believe there is agreement on that course of action, and we would hope that referral of the motion would happen today so that the committee could get to work.

Hon. Terry Stratton: There were discussions, honourable senators, with respect to this issue going to either the Standing Senate Committee on National Finance or the Committee of the Whole in the Senate. It was felt that the Standing Senate Committee on National Finance could quite adequately deal with the motion.

Given that this motion is hitting us today, we could assume that the other place had hearings. Were those hearings conducted in Committee of the Whole or was the motion sent to a particular committee? Can we have an answer to that question?

Senator Rompkey: Honourable senators, I am afraid I cannot answer all of those questions, but I would be glad to find the answers to them.

Hon. Marcel Prud'homme: Honourable senators, I am very glad to be back.

Senator St. Germain: Where were you?

Senator Prud'homme: My colleagues in the House of Commons always used the phrase "across the aisle." I was not sure which island they were talking about. I know now the spelling is not the same. One's counterpart is across the aisle, but there are also others across the aisle, in this corner and in the other extreme corner. I do not know that consultation took place with them as well.

When I was in the House of Commons, I personally was a strong supporter of Mr. Bruce Phillips, voting for him twice. I thought he was an excellent choice. As honourable senators know, I forced a vote here against Mr. Radwanski. I am still thankful to those who saw fit to vote one way or the other. I still read with great pleasure the words that some senators spoke about him. They teach me to use humility when I make a speech. I happen to have been told, and I trust those who told me, that this lady has great competency.

We have established a practice in the Senate, different from the House of Commons, of having nominees appear on the floor of the chamber, which makes for very interesting debate. We could even, by agreement, agree to televise such debates to show the seriousness of the work that the Senate does. The Senate is under attack by many political parties at the moment, including the government. They think sometimes that it is good to attack the Senate in order to make points. I do not agree with that tactic.

Before sending this motion to committee, would honourable senators consider having Ms. Barrados, who, I repeat, seems to be extremely competent, appear before Committee of the Whole? I will support the decision that is taken, but I propose that in the future such debate should be held more in the public eye. If the motion is sent to a small committee that is not televised, only a

small group of people will be knowledgeable about a person who will exercise great authority. With the changes that are taking place now in the Public Service Commission, and we have had many debates about that, I would like to know publicly how she feels about these changes and how she will administer them.

• (1640)

Senator Murray: I should like to make a couple of comments.

Senator Cools: I have a second question.

Senator Rompkey: I should first apologize to Senator Prud'homme because the discussions we had occurred this morning, and I was not sure that he was back with us. He knows, I think, that previously I have made a point of consulting with him.

Senator Prud'homme: Yes, yes.

Senator Rompkey: Having said that, I take what he said seriously about dealing with some of these in Committee of the Whole and televising the proceedings and so on. I am not sure that we can do it with all of them, but we should do it with some.

Our preference with respect to this one is that we should refer it to Standing Senate Committee on National Finance, but there is no reason we cannot arrange to have those committee proceedings televised. The public can be aware of both the questions and the answers. They will be able to see it and hear it. It will be available to more members of the public than otherwise. I hope that Senator Prud'homme will agree with that course of action.

Senator Murray: Honourable senators, this is the first that I have heard that it might be referred to the National Finance Committee. If it is, we will, of course, deal with it thoroughly and expeditiously.

Ms. Barrados is known to us. I am sure she is an excellent choice. Her most recent service, if I am not mistaken, was in the Auditor General's office, and that in itself is quite a recommendation, at least from the point of view of some of us.

There are, however, questions that, frankly, I do not think Ms. Barrados will be able to answer, and it is probably not even proper to put them to her. They concern the intentions of the government with regard to this commission.

I stand to be corrected, but I think that the new public service bill that we passed provided that the existing commissioners would be terminated. It will do away with two two positions. Hitherto, there had been three full-time positions, the chair and two commissioners and I believe the provisions of the legislation terminated the two commissioners. I also believe — and I am again subject to correction — that the legislation provided for an unlimited number of part-time commissioners to be appointed from around the country. I spoke to that, and I am extremely dubious about that as a matter of public policy, but there it is. It is now the law.

I should like to know the intentions of the government in that regard and how it is going about selecting these commissioners. It is an extremely important commission, as we know. It is vital that the Canadian people generally and the federal public servants particularly have every confidence in the commission.

I am sure the government is off to a good start by proposing the name of Ms. Barrados, but we need to know more about the intentions of the government with regard to the other posts in that commission. There may be other questions as well that I do not think are proper or productive to put to Ms. Barrados, assuming that what my friend and his friends in the opposition have in mind is bringing her before the committee to discuss her qualifications, her background and her approach to the job. That would not get us very far.

Senator Rompkey: I am sure it would be. The committee is the master of its own fate and can handle affairs as it sees fit. We have every confidence in the eminent chairman of that committee. I would suggest that, as questions are now piling up, they would be better answered in committee, which has the wherewithal and the time to find the answers. I do not think the committee should be limited in its scope in dealing with the question.

Senator Murray: It would be better answered by ministers on behalf of the government, perhaps.

Senator Rompkey: Then the committee could call the appropriate minister. That is entirely in order and within the scope and ability of the committee to do.

I would hope, Your Honour, that we could pass the motion, and refer the matter to the Standing Senate Committee on National Finance.

Senator Cools: I should like to ask one other question.

Senator Prud'homme's suggestion regarding the Committee of the Whole has great appeal to me. I am sure honourable senators are well aware that I am a great supporter of more use of the Committee of the Whole.

In response to my question, Senator Rompkey did not completely answer my question, although he answered part of it. In response to my question about fuller debate and exchange, he suggested that he and somebody across the aisle had had consultations, and they had decided to refer the bill.

I would say to Senator Murray that that gives me small comfort, because I used to be a member of the Standing Senate Committee on National Finance, but I am no longer. Senator Rompkey will know that because he Rompkey is the person who wrote the letter to me removing me from the membership of the committee, for reasons that I will never understand. However, that is a different matter.

Therefore, Senator Rompkey's response to my question offers me no comfort at all that the kinds of questions and concerns that I have about these appointments will be either put or answered. From what I can see, Senator Rompkey's intention is to have his motion passed as quickly as possible. I begin to wonder what all these motions are about anyway. Perhaps they should just be passed automatically.

I say to Senator Rompkey again, the best time to bring about change and doing things better is usually now, immediately. Rather than holding out a promise that one day in the future we will do things better, why do we not do it better in the present and comply with Senator Prud'homme's suggestion about having a Committee of the Whole? Committee of the Whole, after all, was the original committee structure of all Houses of Parliament.

Can Senator Rompkey respond to that?

Senator Rompkey: With regard to her earlier comments, honourable senators, I am reminded of what my mother used to tell me: Be sure your sins will find you out.

Senator Cools: Your sins will not find you out.

Senator Rompkey: With regard to the latter part of the honourable senator's proposal that we act now and not put things off, I thoroughly agree, and so I move that the motion be referred to the Standing Senate Committee on National Finance.

Senator Cools: There is no motion on the first motion.

The Hon. the Speaker *pro tempore*: Honourable senators, are you ready to for the question?

Hon. John G. Bryden: May I speak on that motion?

Honourable senators, this motion is a limited one. It is that, in accordance with subsection 3(5) of the Act Respecting Employment in the Public Service of Canada, the Senate approve the appointment of Maria Barrados, of Ottawa, Ontario, as president of the Public Service Commission for a term of seven years.

I do not know that even the Chair of the Standing Senate Committee on National Finance can expand that into a reconsideration of the bill that was passed amending the Public Service Act.

Senator Murray: No.

Senator Bryden: We have gone to the appointment of a single commissioner for the public service under this act, just as we have a single Privacy Commissioner and a single Information Commissioner.

Senator Murray: A single full-time commissioner.

Senator Bryden: A single full-time commissioner. I do not know whether it was a precedent or not, but last fall, in approving the appointment of the Privacy Commissioner, the proceedings occurred in Committee of the Whole in the Senate chamber. If

we are going to treat the appointment of these commissioners and the analysis of their qualifications with the seriousness that I believe they deserve — because they have a huge amount of impact on how Canadians are governed — perhaps we should consider doing this one also in Committee of the Whole. I do not know that we can call a minister before one of our standing committees to answer the question of whether this person should be appointed as a commissioner. The person who will answer that question, presumably, is the individual, when we conduct our examination.

• (1650)

Senator Lynch-Staunton: You can call witnesses in front of the Committee of the Whole.

Senator Bryden: The point that I am trying to make is, if we are moving in the direction of examining commissioners — and we did that last fall with the Privacy Commissioner, since we now have another one, it might be an opportunity for a dry run for us, as a Senate, for the time when we, in Committee of the Whole, get to review the qualifications of future Supreme Court judges.

An Hon. Senator: And future senators.

Senator Cools: I think Senator John Bryden made a very brilliant point.

Some Hon. Senators: Oh, oh.

Senator Cools: Again, it speaks to the point that I made. There is a time to change. I was a social worker, and I did a lot of counselling. Whether I was counselling an individual with respect to an addiction, or indeed any kind of problem, I always said that the best time to begin change is now; not next week, next month or next year, the best time is always now.

I do not understand what Senator Rompkey did just a few minutes ago. If this motion is to be referred to the National Finance Committee, how will that motion be moved? My understanding is that we would need another motion to send it to a committee, or at least an amendment to this motion.

I am not following Senator Rompkey procedurally at all, but we cannot have two questions before the chamber simultaneously unless one is superseding. The motion to refer something to committee is not a superseding motion. Perhaps Senator Rompkey could explain the maze that we seem to be working ourselves into.

Senator Rompkey: Procedurally, the house can do whatever it wants, and if the house wants to vote on that motion it can. I put the motion because it was a specific motion. I thought it reflected the agreement that we had across the aisle.

With regard to "across the aisle," this happens every day. That is what I understood our job to be, that is, to consult with each other and see if we can move legislation forward in the interests of all members of the chamber. That is how I take our responsibilities as the leadership on both sides.

In those discussions, it was agreed — and I did not know that Senator Prud'homme was back today — to move the motion to National Finance, and that is the motion I made. I would hope that the house would give leave to put that motion and would approve the motion.

Senator Cools: Honourable senators, I should like to take the adjournment of the debate, so that I can prepare a motion to send this to Committee of the Whole and to give this kind of question the seriousness and consideration it deserves.

Honourable senators, it is becoming increasingly obvious that to do our work properly is becoming an increasing difficulty and an increasing burden. Having said that, honourable senators, I move the adjournment of the debate.

Senator Stratton: Honourable senators, if I may, I think Senator Murray made the point that there are questions to be asked, other than to the lady in question, related to the technical background of this, questions that could not be asked in this chamber as the Committee of the Whole. These questions are better asked in the Standing Senate Committee on National Finance.

I would therefore move that the motion be sent to the Standing Senate Committee on National Finance today.

The Hon. the Speaker *pro tempore*: It is moved by the Honourable Senator Stratton —

Senator Cools: On a point of order, I had moved the adjournment motion before that. Motions must be disposed of one at a time.

The Hon. the Speaker *pro tempore*: It was moved by the Honourable Senator Cools, seconded by the Honourable Senator Harb, that the debate be adjourned.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: No.

Some Hon. Senators: Yes.

The Hon. the Speaker *pro tempore*: Would those honourable senators in favour of the motion please say “yea”?

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore*: Would those honourable senators opposed to the motion please say “nay”?

Some Hon. Senators: Nay.

The Hon. the Speaker *pro tempore*: In my opinion, the “nays” have it.

Senator Stratton: Honourable senators, I move the motion that I previously put, seconded by Honourable Senator Rompkey.

The Hon. the Speaker *pro tempore*: It is moved by the Honourable Senator Stratton, seconded by the Honourable Senator Rompkey, that this question be referred to the Standing Senate Committee on National Finance.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

Senator Cools: Honourable senators, I should like to speak to this as well. This is a chamber with no debate. This is a serious matter. Honourable senators, we should take ourselves far more seriously than we are taking ourselves. These are momentous questions. These are monumental questions. Do honourable senators think they should just spring to their feet and say whatever comes to mind? These are matters that are particularly serious, particularly in light of the Radwanski matter.

Senator Prud'homme: Honourable senators, on a point of order. With all due respect to my friend, the Speaker *pro tempore* has quite rightly asked the question and she has now given the floor to the honourable senator. There is no pressuring anyone. Her Honour called for the vote, but then, since an honourable senator stood, Her Honour interrupted the wish of the majority who wanted to vote by recognizing Senator Cools. Therefore, we are listening to the honourable senator.

Senator Cools: I had said I should to move the adjournment on this order. I should like an opportunity to give this matter the seriousness it deserves, and to look at a little bit of the history of this and to speak to it, quite frankly, with some seriousness.

Honourable senators, there is something very wrong in this place if these motions of moment are being passed swiftly and rapidly without proper consideration. Perhaps that does not bother some senators, but it bothers me a lot.

I remember years ago, in 1989, when we examined the unemployment insurance bill, we were surprised and shocked at the state of the unemployment insurance commission. Honourable senators are free to vote me down. It happens every day; I am quite used to it.

However, I should like to take the adjournment on this motion.

The Hon. the Speaker *pro tempore*: It was moved by the Honourable Senator Cools, seconded — is there a seconder?

There is no seconder.

• (1700)

Senator Cools: Her Honour may call upon any senator to second a motion. She usually does that; she should follow her usual practices.

The Hon. the Speaker *pro tempore*: Honourable senators, is there a seconder to the motion of the Honourable Senator Cools?

Senator Prud'homme: As a matter of principle, Senator Murray once told me that. I will second the motion of Senator Cools, although I will vote against Senator Stratton's motion, to terminate the debate. Her Honour may call the vote, which will be clear, and we will avoid a debate.

The Hon. the Speaker *pro tempore*: It is moved by the Honourable Senator Cools, seconded by the Honourable Senator Prud'homme, that further debate on the motion be adjourned until the next sitting of the Senate. Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: No.

The Hon. the Speaker *pro tempore*: All those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore*: All those opposed to the motion will please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker *pro tempore*: Honourable senators, in my opinion, the "nays" have it.

Are honourable senators ready for the question?

Hon. Senators: Question!

The Hon. the Speaker *pro tempore*: It is moved by the Honourable Senator Stratton, seconded by the Honourable Senator Rompkey, that this question be referred to the Standing Senate Committee on National Finance. Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Senator Cools: On division.

Motion agreed to, on division.

[Translation]

LOUIS RIEL BILL

SECOND READING—DEBATE SUSPENDED

On the order:

Resuming debate on the motion of the Honourable Senator Joyal, P.C., seconded by the Honourable Senator Gill, for the second reading of Bill S-9, An Act to honour Louis Riel and the Metis People.—(Honourable Senator LeBreton).

Hon. Maria Chaput: Honourable senators, it is a pleasure for me to take part in this debate on Bill S-9 at second reading of this bill to honour Louis Riel and the Metis people.

Before her retirement in April of this year, Senator Chalifoux introduced this bill, which is in its third reincarnation. I congratulate and thank the honourable senator for this initiative, which brings us to reflect on the important role played by Louis Riel in the history of Canada.

The more we read about the life of Louis Riel, the more we want to learn about him. I am fascinated and amazed at the scope of complexity of the man, his life and death. Louis Riel has had far more written about him than most other figures in the history of this country.

A number of honourable senators have taken part in the debate already and have related events and facts from Riel's life. I have read their texts with care, and do not want my speech today to be a repetition of what my honourable colleagues have already heard from them.

After reflection, I had the following questions: where did Louis Riel come from, and who were his ancestors? What is it that connects Riel, the Metis, and Canada? I have therefore chosen to share with you some genealogical notes and historical information from various publications by a Manitoban historical society, the Société historique de Saint-Boniface.

To put honourable senators in the proper context, the Société historique de Saint-Boniface has been engaged for the past hundred years in promoting Franco-Manitoban and Metis history, through lectures, meetings and archival material. It administers the Centre du patrimoine, a heritage centre which houses, among other things, the Louis Riel collection, comprising 646 documents, letters and original manuscripts written by Riel, letters from his sister Sara, and the archives of the Union nationale métisse Saint-Joseph du Manitoba.

The Société historique also runs Riel House. This historic site was opened to the public in 1980. Although Louis Riel never lived in the house, the historic property was, according to the archaeological evidence of previous residences, his spiritual home. It was in one of the earlier homes that Riel stayed with his mother when negotiating the founding of Manitoba. He spent time in the present house attending his sister's wedding in 1883.

It was in this house in the St. Vital quarter of southern Winnipeg, Manitoba, where the Riel family lived from 1860 to 1967, that Riel lay in state in December 1885, after his execution. This was where his wife, Marguerite, died in 1886 and where their young children were raised. The federal government acquired the house in 1969 and declared it an historic site in 1976.

According to an account by Maurice Morin, published in the spring 1995 bulletin of the Société historique de Saint-Boniface:

History shows that between 1810 and 1870, the Metis and the Canadiens (term used to describe francophones from Lower Canada) lived in constant interaction and formed a united people called the Metis Canadien.

The events of 1869-1870 in Manitoba had weakened the Metis Canadiens politically and socially and on the advice of Monsignor Taché they were encouraged to work together with the French Canadians who had recently settled the Red River Colony. Together they called for Louis Riel's pardon, the 1869-1870 recognition of rights, and agreed on the issue of Metis land ownership.

The 1885 political crisis in Saskatchewan with the clergy and the Canadian government who condemned Riel, and the Saskatchewan Metis taking up arms, contributed to further dividing francophones and Metis.

A new vocabulary entered the francophone villages, Fort Rouge, Fort des peaux-rouges, and "coulée" to designate the areas of the francophone community that were predominantly Metis. And thus began the prejudice they had to endure, a prejudice that unfortunately still existed in Manitoba in the 1950s when I was studying at the Grey Nuns' convent. Mocking the Metis traditions and accent was commonplace.

More than 75 per cent of the Metis population left Manitoba to build a new life in the Northwest Territories. Prejudice forced the Metis into exile.

Now, honourable senators, allow me to say a few words about Louis Riel's family history and the great influence his family had on his quest for social justice for the Metis Canadiens.

According to France Russell, in a book called *The Canadian Crucible*:

[English]

Louis Riel was born October 22, 1844. All his ancestors were French Canadian save his paternal great-grand mother who was a Franco-Ojibway Metisse.

The young Louis worshipped his father and learned from him to take pride in his race and religion. As a boy, Riel was closest to and even more influenced by his deeply religious mother, the first white woman in the North West.

Louis began his formal education at age seven, initially attending the girl's school run by the Grey Nuns. He was an excellent student and in 1858, he was sent east to attend le Collège de Montréal. By his third year and for the remainder of the term, he led the class or was close to the top.

His father's death changed everything. The young Louis went into a deep depression and four months before the end of his course of studies, Louis and the college came to a mutually agreed parting. Louis remained a year in Montreal and became interested in politics and involved himself in the rising fervour in Quebec over the talk of Confederation.

Riel then left Montreal, traveling first to Chicago and gradually worked his way west, arriving in Red River in 1868.

Confederation the years before had brought major changes to Red River. To its traditional linguistic, racial and religious factors had now been added political ones.

Soon, with Riel's arrival, the colony learned that the Prime Minister Sir John A. Macdonald was negotiating with the Hudson's Bay Company for the transfer of Rupert's Land to Canada. The Canadian government had also decided to build a road from Upper Fort Garry to Lake of the Woods. The construction of the road was bad enough. But making matters worse as far as the Metis were concerned were the "workers" who considered Aboriginal people "inferior in the human hierarchy." In 1869, Canada and the Hudson's Bay Company reached an agreement and no one in the Canadian government thought it necessary to inform, let alone consult, the Metis people.

As the tension mounted, the Metis began to look for a leader. A survey of the settlement had been ordered. In late August, Riel declared the survey a menace from the steps of Saint-Boniface Cathedral and on October 11th, he and a group of about 18 Metis stopped the survey party in its tracks by standing on the surveyor's chain. (A replica of this chain is in a small community museum in the parish where I live.) This made Riel a hero. It was the first act of resistance to Canada's acquisition of the North West. Riel did not consider himself to be acting solely in the interests of the Metis. He quickly appreciated that he needed the support of as many members of the colony as possible to legitimize his demand for negotiations with Canada. And on November 23, Riel proposed the formation of a provisional government.

• (1710)

Then came Thomas Scott's fate. Riel was now running for his life and fled to the United States. We all know the rest of this sad story.

During my research, I found an article written in the *Winnipeg Free Press*, on March 17, 1998, entitled "Father of Controversy — More than 112 years after his death, Louis Riel still provocative." The article states:

Some say Louis Riel is a Father of Confederation. Others call him a murderer and a madman. Few personalities in Canadian history have engendered as much controversy both in their own times and after their death than the man responsible for Manitoba's entry into Confederation.

[Translation]

In her book entitled *The Canadian Crucible*, Frances Russell writes the following on page 14:

[English]

Once the Canadian Confederation was founded, the new provinces served in the same direction of nation building. Each side of the linguistic divide devoted itself to building its reflective province. Enter Louis Riel and Red River colonists who wanted to join the newly minted Canadian

Confederation. On the Prairies, in the shadow of St. Boniface Cathedral and around The Forks, the two linguistic groups, francophone and Metis, had been living side by side for decades, sometimes at odds, but mostly at peace. Francophones, with the majority, and their leader Louis Riel, a Metis, negotiated the creation of Manitoba. Riel was a new kind of leader, a native, educated and bilingual, he could be seen to embody this new Canada in his personal duality.

His natural wisdom, his remarkable maturity and his political flair enabled him to ensure that Manitoba was a model of tolerance, bilingualism and foresight. But this dream was not to be completely fulfilled.

In the early winter of 2001, CBC TV News carried an hour-long program on the great "What ifs" of Canadian history. What if Louis Riel had not been hung? What if Thomas Scott had not been shot?

[Translation]

Honourable senators, it is important to review our knowledge of the past and its transparency in today's reality. I could go on, because there is no end to this historical account. I have barely touched the surface.

This is not about redressing wrongs or correcting history. We made mistakes in the past. This is not about putting the blame on anyone. This is about building a Canada that is strong, compassionate and understanding.

I consider Louis Riel to be a Father of Confederation. He created the province of Manitoba and he tried to secure linguistic rights for his people, whom he saw as being an integral part of Canada.

Louis Riel motivated all his Metis descendants to face adversity and to remain true to themselves. History cannot be rewritten, but we should remember it.

Canada has reached its maturity and our common history is a strong, vibrant and human history, with its mistakes and battles.

What we must remember is a man who only wanted democracy for his people, in a Canada that he loved. That man was chosen as a leader by the Metis people who, at the time, formed a majority. He helped define collective objectives. He succeeded in achieving a broad consensus and in rallying virtually his whole community. This is worth mentioning!

Louis Riel played a key role. He helped Manitoba join Confederation as a province and he helped ensure that guarantees regarding religion and language would be included in the Manitoba Act.

This man played a major role in the building of Canada as we know it today.

[Hon. Maria Chaput]

Whether or not we agree with history's interpretation, there is no doubt that the life and death of Louis Riel largely contributed to the shaping of political allegiances in today's federal government.

2004 is a year when we are giving back to the Metis what was so unjustly taken from them: the recognition that they are a nation and have collective rights, and a bill that honours them.

[English]

Hon. Shirley Maheu: I should like to continue the debate on this issue. Are the bells about to ring?

[Translation]

CRIMINAL CODE

BILL TO AMEND—THIRD READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Joyal, P.C., seconded by the Honourable Senator LaPierre, for the third reading of Bill C-250, An Act to amend the Criminal Code (hate propaganda),

And on the motion in amendment of the Honourable Senator St. Germain, P.C., seconded by the Honourable Senator Stratton, that the bill be not now read a third time but that it be amended, on page 1, in clause 1, by replacing lines 8 and 9 with the following:

"by colour, race, religion, ethnic origin or sex."

On the subamendment of the Honourable Senator Cools, seconded by the Honourable Senator Tkachuk, that the motion in amendment be amended by adding, before the words "ethnic origin," the words "mental or physical disability,".

The Hon. the Speaker pro tempore: It is now 5:15 p.m. Pursuant to the order adopted by the Senate on April 22, 2004, I must interrupt the proceedings in order to put the question on the subamendment to Bill C-250 moved by Senator Cools.

The bells will ring for 15 minutes and the vote will be taken at 5:30 p.m.

[English]

I would advise honourable senators that, following the vote on the subamendment of Senator Cools, we will then proceed immediately to the vote on the motion of the Honourable Senator Joyal on the previous question that was moved regarding the motion of the Honourable Senator Murray.

If this motion carries, we will proceed to the motion of Senator Murray. Following that, we will proceed to the motion for the third reading of Bill C-7.

Call in the senators.

• (1730)

Subamendment negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Comeau	Lynch-Staunton
Cools	St. Germain
Di Nino	Stratton
Eyton	Tkachuk—9
Kelleher	

NAYS
THE HONOURABLE SENATORS

Adams	Hervieux-Payette
Atkins	Hubley
Austin	Jaffer
Bacon	Joyal
Banks	Kroft
Biron	Lapointe
Bryden	Lavigne
Callbeck	Léger
Carstairs	Losier-Cool
Chaput	Maheu
Christensen	Massicotte
Cook	Mercer
Corbin	Morin
Day	Munson
Downe	Murray
Fairbairn	Pearson
Ferretti Barth	Phalen
Finnerty	Ringuette
Fraser	Robichaud
Furey	Rompkey
Gauthier	Smith
Gill	Spivak
Graham	Stollery
Harb	Watt—48

ABSTENTIONS
THE HONOURABLE SENATORS

Sibbeston—1

THE SENATE

CRIMINAL CODE
MOTION TO DISPOSE OF BILL C-250 ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Joyal, P.C.:

That it be an Order of the Senate that on the first sitting day following the adoption of this motion, at 3:00 p.m., the Speaker shall interrupt any proceedings then underway; and all questions necessary to dispose of third reading of Bill C-250, to amend the Criminal Code (hate propaganda) shall be put forthwith without further adjournment, debate or amendment; and that any vote to dispose of Bill C-250 shall not be deferred; and

That, if a standing vote is requested, the bells to call in the Senators be sounded for fifteen minutes, after which the Senate shall proceed to take each vote successively as required without the further ringing of the bells.

On the motion of the Honourable Senator Joyal, P.C., seconded by the Honourable Senator Maheu, that the original question be now put.

The Hon. the Speaker pro tempore: Honourable senators, the next question is on the motion of the Honourable Senator Joyal, seconded by the Honourable Senator Maheu, that the original question be now put.

Motion agreed to on the following division:

YEAS
THE HONOURABLE SENATORS

Adams	Hervieux-Payette
Atkins	Hubley
Austin	Jaffer
Bacon	Joyal
Banks	Kroft
Biron	Lapointe
Bryden	Lavigne
Callbeck	Léger
Carstairs	Losier-Cool
Chaput	Maheu
Christensen	Massicotte
Cook	Mercer
Corbin	Morin
Day	Munson
Downe	Murray
Fairbairn	Pearson
Ferretti Barth	Phalen
Finnerty	Ringuette
Fraser	Robichaud
Furey	Rompkey
Gauthier	Smith
Gill	Spivak
Graham	Stollery
Harb	Watt—48

NAYS
THE HONOURABLE SENATORS

Cochrane	Lynch-Staunton
Comeau	Sibbeston
Cools	St. Germain
Di Nino	Stratton
Eyton	Tkachuk—11
Kelleher	

ABSTENTIONS THE HONOURABLE SENATORS

Nil

• (1740)

The Hon. the Speaker *pro tempore*: The question is now on the motion of the Honourable Senator Murray, seconded by the Honourable Senator Joyal:

That it be an Order of the Senate that on the first sitting day following the adoption of this motion, at 3:00 p.m., the Speaker shall interrupt any proceedings then underway; and all questions necessary to dispose of third reading of Bill C-250, An Act to amend the Criminal Code (hate propaganda) shall be put forthwith without further adjournment, debate or amendment; and that any vote to dispose of Bill C-250 should not be deferred; and

That, if a standing vote is requested, the bells to call in the Senators be sounded for fifteen minutes, after which the Senate shall proceed to take each vote successively as required without the further ringing of the bells.

Hon. Anne C. Cools: Point of order. I have said it three or four or five times.

Honourable senators, I have a point of order. You cannot do this, Your Honour.

The Hon. the Speaker *pro tempore*: Is there agreement to hear the point of order now?

Some Hon. Senators: No.

Senator Cools: No agreement is needed. This is a point of order.

Motion agreed to on the following division:

YEAS THE HONOURABLE SENATORS

Adams
Atkins
Austin
Bacon
Banks
Biron
Bryden
Callbeck
Carstairs
Chaput
Christensen
Cook
Corbin
Day
Downe
Fairbairn
Ferretti Barth
Finnerty
Fraser
Furey
Gauthier

Hervieux-Payette
Hubley
Jaffer
Joyal
Kroft
Lapointe
Lavigne
Léger
Losier-Cool
Maheu
Massicotte
Mercer
Morin
Munson
Murray
Pearson
Phalen
Ringnette
Robichaud
Rompkey
Smith

Gill
Graham
Harb

Spivak
Stollery
Watt—48

NAYS THE HONOURABLE SENATORS

Cochrane
Comeau
Di Nino
Eyton
Kelleher
Lawson

Lynch-Staunton
Oliver
Sibbeston
St. Germain
Stratton
Tkachuk—12

ABSTENTIONS THE HONOURABLE SENATORS

Cools—1

Senator Cools: Honourable senators, I should like to state my reason for abstaining. What was before us was two votes, by order of the Senate of a few days ago. This motion was never agreed —

Some Hon. Senators: Order.

The Hon. the Speaker *pro tempore*: When the Speaker's attention has been called to a breach of order during a division, the division will proceed and the Speaker will deal with the matter when the division is completed.

Hon. Sharon Carstairs: Honourable senators, I rise on a point of order, which is, I hope, a point of clarification. We had an incident earlier this afternoon when one of our senators was challenged and it was indicated that he would not be allowed to vote. Exactly the same situation happened a few minutes ago for Senator Oliver.

My point is this: I think we need clarity in this chamber. The clarity should be, in my view — others are free to disagree — that once the Speaker has risen and has begun to read the motion, then anyone who enters the chamber at that point is ineligible to vote.

Hon. Terry Stratton: The rule clearly states that a senator must be beyond the bar prior to the question being put. The rule is quite clear. I would agree with the senator, but the rule is quite clear.

Senator Carstairs: It is not that the rule is not clear; it is that there does not seem to be clarity in the understanding of senators as to what the rule means. In my view, the rule means that once the Speaker has risen and begins to speak, no one else can vote who then enters the chamber.

In fairness to Senator Oliver and in fairness to Senator Harb, seeing as we accepted Senator Harb's vote earlier this afternoon, we therefore must accept Senator Oliver's vote on this matter. Let us be clear in the future.

The Hon. the Speaker pro tempore: This is an important question and it will be taken up with the Speaker's Advisory Committee.

Hon. Mac Harb: Honourable senators, I wanted to make absolutely clear, while we are reviewing this matter, at page 71 of the *Rules of the Senate in Canada*, rule 68(1) states:

[Translation]

A Senator may not vote on any question unless the Senator is within the Bar of the Senate when the question is put.

[English]

Your Honour, I would submit that both Senator Oliver and myself were within the bar when the question was put. Therefore, both Senator Oliver and myself followed the *Rules of the Senate of Canada*.

Having said that, I was told clearly by the briefing note when I came here, as well as in other documents, that a question is put once the Speaker has clearly called the yeas and the nays. For as long as the Speaker is in the process of reading the question, the question is not yet put. Therefore, with the greatest respect, I would say that both Senator Oliver and myself, under the present rules, were within our rights to vote.

The Hon. the Speaker pro tempore: The question will be reviewed by the Speaker's Advisory Committee.

Senator Cools: Your Honour, a point of order was raised. There is no authority for you to refer that to any Speaker's Advisory Committee or any other committee. You are required to respond to what was said here.

• (1750)

[Translation]

Hon. Pierrette Ringuette: Honourable senators, I must admit how very disappointed I am at what we are hearing today and at the actions taken.

I was watching when you asked your question — I clearly saw you — and I saw Senator Oliver come in behind your seat. When a senator, who is not a newcomer, abuses the rules, the *Rules of the Senate* prevail, in my opinion. I agree with Senator Carstairs that, at some point, a decision must be made and made once and for all. In my opinion, Senator Oliver was not entitled to vote.

[English]

Senator Cools: Honourable senators, the Speaker of the Senate has the power to make rules for the Senate. The Speaker's power in this place is extremely circumscribed.

Senator Harb put the rule on the record here in French. I would like to put it in English. Rule 68.1 states:

A Senator shall not vote on any question unless the Senator is within the Bar of the Senate when the question is put.

That is very interesting. It does not say, "...unless the senator is in his seat or her seat." It states, "...when the question is put." It does not state, "...when the Speaker rises to speak or to put the question."

Senator Carstairs' interpretation is almost correct. She is confusing the putting of the question with the phenomenon of the rising to put the question. In other words, the rule does not say, "...unless the senator is within the Bar of the Senate when the speaker rises to put the question."

It is not up to Her Honour to clarify these rules. It is not her job to do that.

In point of fact, according to Senator Harb's interpretation — if I were he, I would be more cautious than not — the question is not put until the Speaker has completed her sentence. That is when it is put. If the rule intended it to be different, the rule would have made that clear. There are many other rules that speak to when the Speaker is on his feet, rising, sitting and so on.

I was just handed something with the headline, "Putting the Question." I do not know where this comes from. Senator Harb has just handed it to me. It may be part of some notes that are given to new senators. There is a category headed, "Votes," and, within that category is a headline, "Putting the Question." The document states that, when the Senate is ready to vote, the Speaker may read the motion in its entirety, so that there is no doubt about which motion is about to be voted upon. Then the Speaker says: "Is it your pleasure, honourable senators, to adopt the motion?" This constitutes putting the question. In some cases, the text of a motion can be very long.

The document goes on and on. There is much ground for Senator Harb's interpretation. Senator Lavigne is asking a profound question: How can you vote if you do not know what the question is? Senators do it every day. Members of the House of Commons do it every day, so that it is not perplexing.

[Translation]

The Hon. the Speaker pro tempore: Honourable senators, I will discuss this matter with the Speaker's Advisory Committee. Let us move on.

Hon. Jean Lapointe: Honourable senators, if it had been a very close vote, I would understand. However, I think we are wasting an incredible amount of time every time Senator Cools rises on a point of order. I appreciate Senator's Cools' competence; she knows the *Rules of the Senate* by heart. Had I been here since 1984, I would know them that well too. However, in my opinion, all her points of order are a terrible waste of the Senate's time.

[English]

PUBLIC SAFETY BILL 2002

THIRD READING—DEBATE SUSPENDED

On the Order:

Resuming debate on the motion of the Honourable Senator Day, seconded by the Honourable Senator Léger, for the third reading of Bill C-7, to amend certain Acts of Canada, and to enact measures for implementing the Biological and Toxin Weapons Convention, in order to enhance public safety.

The Hon. the Speaker *pro tempore*: Honourable senators, the question is on the motion of the Honourable Senator Nolin, seconded by the Honourable Senator Tkachuk, that further debate on the motion for the third reading of Bill C-7 be adjourned until the next sitting of the Senate.

Motion negated on the following division:

YEAS THE HONOURABLE SENATORS

Andreychuk
Atkins
Cochrane
Comeau
Di Nino
Eyton
Kelleher
Lawson
LeBreton
Lynch-Staunton

Murray
Nolin
Oliver
Prud'homme
Sibbeston
Spivak
St. Germain
Stratton
Tkachuk—19

NAYS THE HONOURABLE SENATORS

Adams
Austin
Bacon
Banks
Biron
Bryden
Callbeck
Carstairs
Chaput
Christensen
Cook
Corbin
Day
Downe
Fairbairn
Ferretti Barth
Fraser
Harb
Hervieux-Payette

Hubley
Jaffer
Joyal
Lapointe
Lavigne
Léger
Losier-Cool
Maheu
Massicotte
Mercer
Morin
Munson
Pearson
Phalen
Ringuette
Robichaud
Rompkey
Smith
Watt—38

ABSTENTIONS THE HONOURABLE SENATORS

Nil

The Hon. the Speaker *pro tempore*: It is six o'clock. Would you like me to see the clock?

Hon. Bill Rompkey (Deputy Leader of the Government): Your Honour, I think that you would find consensus not to see the clock.

The Hon. the Speaker *pro tempore*: Is there an agreement not to see the clock?

Senator Cools: Your Honour, I am on my feet.

The Hon. the Speaker *pro tempore*: There is no agreement. We will return at eight o'clock.

The sitting of the Senate was suspended.

• (2000)

The sitting of the Senate was resumed.

WESTBANK FIRST NATION SELF-GOVERNMENT BILL

MESSAGE FROM THE COMMONS

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-11, to give effect to the Westbank First Nation Self-Government Agreement.

Bill read first time.

The Hon. the Speaker *pro tempore*: Honourable senators, when shall this bill be read the second time?

On motion of Senator Rompkey, bill placed on the Orders of the Day for second reading two days hence.

INTERNATIONAL TRANSFER OF OFFENDERS ACT

MESSAGE FROM COMMONS

The Hon. the Speaker *pro tempore* informed the Senate that a message had been received from the House of Commons with Bill C-15, to implement treaties and administrative arrangements on the international transfer of persons found guilty of criminal offences.

Bill read first time.

The Hon. the Speaker *pro tempore*: Honourable senators, when shall this bill be read the second time?

On motion of Senator Rompkey, bill placed on the Orders of the Day for second reading two days hence.

QUESTION OF PRIVILEGE

The Hon. the Speaker pro tempore: Honourable senators, it being eight o'clock, pursuant to rule 43(8), the Senate shall now take up consideration of the question of privilege of Senator Cools, who gave oral notice earlier this day.

Hon. Anne C. Cools: Honourable senators, where are we on the Order Paper? I thought that when the sitting was suspended we were debating Bill S-9, to honour Louis Riel and the Metis. That was my understanding. Perhaps Her Honour could clarify.

The Hon. the Speaker pro tempore: Senator Chaput finished speaking to Bill S-9.

Senator Cools: Did someone take the adjournment? I was under the impression that Senator Maheu was about to put a question to Senator Chaput.

An Hon. Senator: Debate was adjourned.

Senator Cools: We adjourned debate? Very well.

The Hon. the Speaker pro tempore: Honourable senators, rule 43(8) of the *Rules of the Senate* states:

Except as provided in section (9) below, the Senate shall take up consideration of whether the circumstances constitute a question of privilege at no later than 8:00 o'clock p.m., or immediately after the Senate has completed consideration of the Orders of the Day for that sitting, whichever comes first.

Senator Cools, please proceed.

Senator Cools: Honourable senators, with apologies, my earpiece is not working. I have had to change it already today but it pops in and out. I do not want to dismay honourable senators but I truly did not hear what Her Honour said.

The Hon. the Speaker pro tempore: If the honourable senator did not hear what I said, perhaps she could read rule 43(8) on page 47 of the *Rules of the Senate*. That is what I just read to the house.

Senator Cools: Honourable senators, I rise today on a question of privilege in respect of events and actions during Senate proceedings on Thursday, April 22, 2004. If ever there were a democratic deficit, the events in this chamber recently on Bill C-250 certainly have proven that. I speak in particular to the manner of the prosecution of Bill C-250. A marked feature of the prosecution of this bill has been its constant truncation of debate and its considerable anomalies and sometimes irregularities. In addition, this bill has been driven by government support, although it is a private member's bill.

Honourable senators, I speak to what I consider to be a pernicious exercise of power, which is inconsistent with parliamentary principles, practices and Senate rules. I refer

specifically to the dual motions of Senator Murray and Senator Joyal: one being the guillotine motion and the other being the closure motion, known as the motion to put the previous question, which was the original closure motion. The other motion developed as a result of that.

Honourable senators, in a funny way I am asking the Speaker *pro tempore* to adjudicate a question that involves her because she is currently in the Chair as I raise this question of privilege. The rule under which I raise this question of privilege calls upon Her Honour to make a finding of *prima facie* privilege. Honourable senators will know that a *prima facie* finding is not a finding or ruling of privilege. The finding of a breach of privilege rests with the entire chamber. Many senators now believe that it is the Speaker who rules on that because the *prima facie* ruling has come to take on a role for which it was never intended when the rules were created.

• (2010)

In fact, Her Honour's decision has to do essentially with making a declaration as to whether there is an appearance of a breach of privilege — the first blush of a breach — and then to allow a motion to be moved, which will then take precedence over the other business of the Senate. That is the sole role of the Speaker of the Senate — it seems not widely understood — to decide whether or not that motion should take precedence over anything else.

Honourable senators, I will be asserting that the Speaker *pro tempore*, in allowing Senator Murray's motion to proceed, was simultaneously disallowing any debate on that motion by recognizing Senator Joyal as the first speaker, even though the opposition leader, Senator Lynch-Staunton, and other senators, including myself, had risen before Senator Joyal. This is a breach of the privileges of the Senate. The Senate Speaker is given no power by the Senate's rules or by the Senate's constitution to do such things, particularly the compulsion of the Senate to accept a guillotine motion from a private member, a motion that can only be properly moved by a minister of the Crown, and further, to accept this guillotine motion in combination with a closure motion, being the previous question. These two motions were moved as a duet of some kind, a diabolical combination and so improper as to be devastating.

Honourable senators, these kinds of questions, either for the previous question or for the guillotine motion, have always been considered to be most exceptional procedures. The house has always been reluctant to accept such motions, save in circumstances where it is felt to be the only means of ensuring the proper conduct of the business of the house. The proper conduct of the business of this house was never in doubt, and those mechanisms should not have been resorted to or even entertained or countenanced.

Honourable senators, I would like to put a quotation on the record by one of the great grandfathers or forefathers of liberalism in Ontario, William Lyon Mackenzie. He was the grandfather of Prime Minister William Lyon Mackenzie King and a member of the House of Assembly of Upper Canada. He made a very famous statement that has remained current, I think, in the business of politics and in the business of chambers and the

operation of houses. This quotation is found in Margaret Fairley's book entitled *The Selected Writings of William Lyon Mackenzie, 1824 to 1837*. Senators must know that I made it my business to look very clearly at the history of liberalism, particularly in Ontario, and the role of that group that was called the Reformers, who became the Clear Grits, who later became the Liberals, and the work of William Warren Baldwin, Robert Baldwin, William Lyon Mackenzie, and my great hero, of course, George Brown.

William Lyon Mackenzie said the following about the business of the exercise of power, because parliaments and systems of governance must always be attentive to the proper exercise of power. In a petition to Her Majesty, he said:

...for there is not now, neither has there ever been in this province, any real constitutional check upon the natural disposition of men in the possession of power to promote their own partial views and interests at the expense of the interests of the great body of the people.

Honourable senators, the exercise of power is something that should be done with great diligence and to attend to what I would consider the principles of the entire system and also to the protection of the rights of all to participate in debate and to move the debate forward in a meaningful and pure way.

Honourable senators, I would like to speak about the role of the Speaker of the Senate. The Speaker's role in respect of Senate proceedings is extremely limited and extremely circumscribed. In addition, senators should expect impartiality and fairness from their Speaker.

It is of interest that these matters have been well canvassed in the past. I remember some time ago that we had enormous difficulty and problems with a particular Speaker, and it was a very awful experience. It hurt him deeply and hurt us all deeply.

However, in point of fact, I would like to show how the constitution of the Senate treats the Speaker in a very circumscribed way and limits and circumscribes those powers of the Speaker in a very particular way. To show this, I would also like to put a couple of quotations on the record. Beauchesne's 6th edition, paragraph 171, states:

Foremost among many responsibilities, the Speaker has the duty to maintain an orderly conduct of debate by repressing disorder when it arises, by refusing to propose the question upon motions and amendments which are irregular, and by calling the attention of the House to bills which are out of order.

This paragraph refers to the Speaker in the House of Commons, but I would submit that it stands very well in this chamber. The fact is that the Speaker has a duty not to put motions to the chamber that are irregular, and it is a role to be exercised.

I support that citation by citing a statement from Palgrave. He may not be familiar to many senators, but I quote Sir Reginald

Palgrave in something called *The Chairman's Handbook*. He says the following at page 5:

A Chairman is bound to decline to put from the Chair a Motion or Amendment which is out of Order — as being beyond the scope of the Meeting, or foreign to the purpose for which it is called together...

Very clearly, we have some strong opinions on that point.

Palgrave, again in respect of this matter, states the following at page 7:

...a Chairman is entitled to claim the united and prompt support of those over whom he presides. But to be so entitled, he must strictly obey the governing principle of chairmanship, namely absolute impartiality. He must bear in mind that the ordinary functions of a chairman are essentially ministerial. A Chairman, therefore, if he rises to address a meeting; he does not speak as a member of the meeting...

He goes on and on about the proper role and conduct of a chairman.

I put these matters on the record, honourable senators, because if we were to look to rule 18(1) of the *Rules of the Senate* rules, we see that when the Senate Speaker speaks or makes a ruling, he or she is supposed to rely on some authority and on precedents and to cite rules. Rule 18(2) provides that:

The Speaker shall decide points of order and when so doing shall state the reasons for the decision together with references to the rule or other written authority applicable to the case.

For example, last Thursday in that ruling, no such thing applied. As a matter of fact, we heard something about a hypothetical situation and no citation was made as to which rules or what parliamentary authorities were being relied on, so it is a very interesting phenomenon.

I am trying to say, honourable senators, that the Speaker of the Senate is not the chamber's man or woman as is the House of Commons Speaker. The Speaker of the Senate is the Queen's person and so exists in a different relationship to members of the Senate.

Continuing in the same vein that the Speaker should protect the house from motions that are unusual or irregular, particularly questions of closure and guillotine, which are exceptional procedures, I would like to quote Lord Campion in his book, *An Introduction to the Procedures of the House of Commons*.

• (2020)

Lord Campion is a former Clerk of the U.K. House of Commons who became a member of the House of Lords, which is a rare and interesting experience. On this question, Lord Campion says, talking about the Speaker putting these kinds of motions before the chamber:

It lies in the discretion of the Chair to "refuse the closure if in his opinion the motion is an abuse of the rules of the House or an infringement of the rights of the minority."

In other words, the Speaker has a power to decline to put closure motions if they are an abuse of the rules of the house.

I want to show honourable senators that those two motions were not only an abuse of the house but also breaches of our privileges. Lord Campion is supported, honourable senators, by Erskine May, or vice versa, depending on who died first. Erskine May, twenty-second edition, at page 407, said very clearly the following:

That question must be put forthwith,

— meaning a previous question,

— without amendment or debate, unless it appears to the Chair that the motion is an abuse of the rules of the House or an infringement of the rights of the minority. The discretionary power of the Chair to protect the rights of the minority by refusing the closure is frequently exercised.

Therefore, honourable senators, a fair degree of consideration has been given to this phenomenon of Speakers willy-nilly putting these kinds of motions to the chamber, but what is unthinkable and unheard of is the Speaker's active cooperation with the movers of such motions to place them before the house, and that is the question, honourable senators, that I am asking Her Honour to rule on. I contend, honourable senators, that those motions were put without impartiality, without objectivity and without proper consideration, and the result is that the Speaker countenanced those motions which, to my mind, are grossly improper and grossly dictatorial. That is the notion of closure and the guillotine motions. These motions are supposed to be used in exceptional circumstances.

In addition to that, when they are being used, the minister must always prove that there is an urgency, that there is a kind of emergency happening, that there has been prolonged obstruction or some such thing and, in addition, that the public interest demands that these bills be passed.

Of interest on this bill, honourable senators, is that there is no public support for it. The support is here on the Hill. If you look at the applications of witnesses who wanted to appear before the committee, you will see that five were in favour of the bill, 2,164 were opposed to the bill, and 190 did not declare or state their position. Let us say, for the sake of argument, that the number of those who did not state their position divided into the same ratio. You would be dealing with about 2,300 against and half a dozen or seven in favour of the passage of the bill. I think that should give us serious pause to consider the situation.

Honourable senators, I come to the point now that I think is especially critical. Senator Murray moved that motion which was countenanced by the Senate Speaker *pro tempore*. I should like to say to honourable senators that there is no power either in the

Rules of the Senate or in the House of Commons for a private member to move a guillotine motion. It is so well articulated, because our rules, which did not exist in their present form till some years ago, demonstrate that very clearly. Senate rules 38 and 39 are clear that there is no base in the Senate rules for such an action, that it is the preserve of the Crown in dealing with such matters as the financial initiatives of the Crown, a Royal Recommendation and so on. The power of private members to move a guillotine motion or time allocation motion is just not there. That power is reserved exclusively to a minister of the Crown.

Trust me, senators, this is a very serious matter, and I would submit a serious democratic deficit. I would submit, honourable senators, that these kinds of motions and these kinds of actions undermine public respect for the Senate. I do a lot of speaking, and I travel a lot in this country, and I constantly have to face the Senate's reputation and I constantly try to uplift it. Honourable senators, this kind of activity does not support a healthy public perception at this time, particularly when the Liberals and Mr. Martin are plummeting downwards in public support. This does not help at all, honourable senators, and I think Her Honour should bear that in mind.

Unlike the previous question, which is the original closure motion, a previous question can be moved by a private member but not a guillotine motion. I can find support, for example, in Beauchesne's, sixth edition, who in paragraph 518 speaks to the closure rule in the House of Commons which says:

The closure rule in Standing Order 57 permits a Minister to move a motion intended to bring debate on any question to an end with the House deciding that question under consideration.

It clearly states that a "Minister," and if you read through the literature, there is reference to "governments" and a "Minister."

If one were then to look to Marlowe and Montpetit, one would also see, for example, on page 563, under time allocation,

... it also allows the government to impose strict limits on the time for debate. While it has become the most used mechanism to curtail debate, time allocation remains a means of bringing parties together to negotiate an acceptable distribution of the time of the House.

It is very interesting, except this was not a battle between the opposition and the government; this was a private member's bill. I keep coming back to the principle that, if government supporters and government members and the government so wanted this bill, then the bill should have been proceeded with under the phenomenon of ministerial responsibility, with the government taking clear responsibility and answering to the public for it, because the government here has insisted that it is not a party to this. Yet, I have noticed the quarterback on the bill seems to be Senator Robichaud, the former Deputy Leader of the Government. Yes, you can go through the record. I can prove this, Senator Robichaud. I can prove it. You are crying now.

Senator Robichaud: Really.

Senator Cools: Do not cry. I will come and wipe your tears.

Senator Robichaud: I do not want you near me.

Senator Cools: That is obvious.

Senator Robichaud: Yes.

Senator Cools: I hope that shows up on the record. It is pretty obvious. I am glad Senator Robichaud said it. He does not want me near him. Ask him to repeat it. Perhaps he will have the nerve to stand up and put it on the floor of the chamber.

I was saying, honourable senators, that Marleau and Montpetit tell us that this is also supported by many of the writers on these subject matters, Campion, Redlich, May and so on.

When this was allowed to go forward and points of order were attempted to be raised, they were not allowed by Her Honour in the first place, and the record of last Thursday shows enormous confusion and it is very bewildering, to say the least. Interestingly, honourable senators, the Senate's rules 38 and 39 are crystal clear. Outside of that, there is no power within any rule of the Senate for a private member to move a guillotine motion.

• (2030)

I am very disappointed and saddened by the fact that the Speaker of the Senate countenanced such a motion and, in actual fact, lent the both of them her support.

Honourable senators, I should like to come, then, to what I am asking Her Honour to do. This is a most interesting phenomenon. What we have here is that a person is being a judge in a case that involves her.

The way our business on privilege has been so structured, that is unavoidable. The practices of Parliament are very clear, that, at any given moment, if the Speaker has said something that is out of order, that can be raised in another point of order. I am not speaking about appeals of rulings, which are completely different, but the fact of the matter is that the Speaker is always subject to the house and not only to appeals of rulings. The notion is that the Speaker is subject to the rules of the house and is bound by the same rules.

What I am asking in this bizarre situation in which I find myself is that I feel that Her Honour breached the privileges of the Senate last Thursday, in that she allowed debate on a bill to be seriously truncated. I should also like to suggest, honourable senators, that this sort of thing has happened several times in this debate. It is not unusual. The committee hearings were truncated and cut short. The debate at second reading was cut short.

Honourable senators, I should like to cite page 329 of the *Debates of the Senate* of February 20, 2004, where, with the then Speaker sitting in the chair, my right to speak to Bill C-250 at second reading was denied. I was on my feet, trying to speak. The

Speaker moved right to the question at Senator Robichaud's behest. That is a case where the question was used as a mini-form of closure. This has happened all the way through this debate, the moving of adjournments and the calling for the question to be put. In this case, on February 20, the Speaker very diligently obeyed and put the question and denied me my opportunity to speak at second reading.

The proper role of the Speaker, Your Honour, is for the Speaker to ensure that senators have an opportunity to speak. It leaves a questionable thought as to what the real function of the Senate is and whether or not it is serving the public well.

I have seen a lot in the last few days. I have been here a few years. This place will have to address the question of its own relevance to this country and to politics in this nation, because what we are being told again and again is that the Senate is not a place for debate, that the Senate is not a place to bring forth issues and ideas, that the Senate is not a place to question government initiatives or to uphold the grand principles of ministerial government in this country and that what we should do, basically, is vote without any kind of debate and vote as we are told to. If we do not do what we are told, then we can expect a fair amount of brutishness, brutality and cruelty.

Honourable senators, we will have to look at this and do some introspection. It is becoming increasingly hard to defend these bills that are coming through faster and faster and with very little debate. I did not come to the Senate to do that. I came here to play a full role as a parliamentarian in this country in terms of weighing and studying proposed legislation. If I err, I err on the side of earnestness.

I know many senators scorn and laugh at me because I am always talking about this principle and that principle and saying that we should do things properly and try harder.

When I was on the National Parole Board and I tried to be a good parole board member, and tried to read every single case, I remember I used to be questioned that way. Honourable senators know the whole thing about Gresham's law and the lower standard prevailing. Thank you very much, honourable senators, I choose the higher standard. I always have and I always will. I do not think that I can alter that. That is as natural to me as the colour of my skin.

Honourable senators, in closing, I should like to ask Her Honour to make a ruling on what I have raised. I am asking her to make a *prima facie* ruling — which is exactly where I began — that she has breached the Senate privileges in countenancing those motions and in lending support, whether it was acknowledging Senator Joyal over Senator Lynch-Staunton or other senators, who were clearly on their feet before Senator Joyal rose. I was on my feet. I saw him rise. Senator Lynch-Staunton was on his feet and others.

The practice in this place is that, when senators rise, the Speaker goes to those with precedence, being the Leader of the Government in the Senate or the Leader of the Opposition. I was not too happy when that practice was not followed.

In any event, I maintain that there is a breach of privilege here. I am not asking Her Honour to make a finding of whether or not there is a breach of privilege here. I am asking her to make a finding that there is a *prima facie* case which is at least worthy of the issue and the matter going forth in this chamber for a debate on the motion I shall move. The real debate should always take place on that motion, and not on the *prima facie* question.

Honourable senators, the practices and the rules here are constructed in such a way that that the Speaker is a judge in his or her own cause. I do not know any other way around that. It is very unfortunate that we are in this position, but I do say to honourable senators that I do not think it is good for the Senate that those motions were prosecuted in the way that they were. I think we will see the day when we deeply regret it, because I submit that what goes around comes around.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I wish to take advantage of Senator Cools' question of privilege to also deplore the fact that we have engaged here in the last few hours in a procedure that I believe we will learn to regret. That is, that one senator, for whatever reason, decided on his own to impose a closure motion. That is unheard of. I speak here of the closure motion, not a motion for time allocation, not a motion to give us an opportunity to debate a certain item within a certain time frame, but, in effect, a guillotine. That in itself was bad enough.

What followed after that senator's intervention was the motion of Senator Joyal to move the previous question. We never had the opportunity to debate Senator Murray's motion. I feel that my privilege has been affected by that, as one responsible for debating, arguing and for getting information on whatever issue.

First, there was a limitation on debate, then an inability to debate the motion. That is unprecedented. My privileges and those of all colleagues, however they feel about the bill that led to Senator Murray's motion — regardless of our feelings, the point is not the bill; the point is what we have accepted in two votes before six o'clock.

I would ask Her Honour, in assessing Senator Cools' question of privilege and my intervention, which I am hopeful is shared by others, to at least rule that there is a privilege here that has been challenged, questioned and should be respected more than it is. Otherwise it would mean, if Senator Murray's and Senator Joyal's tactics are accepted, that we can just limit debate on any item, at any time, on anything, whenever two individuals feel like it.

• (2040)

I would hope that Her Honour would take that into consideration. I will stop there.

Hon. Gerry St. Germain: Honourable senators, I, too, have a concern. My concern is that, when sitting in the position I occupy in the Senate chamber, I saw both Senator Lynch-Staunton and Senator Tkachuk rise before Senator Joyal.

Whether the Speaker *pro tempore* sought advice from the Table or whether something else took place, I do not know, but I clearly saw that, and that to me is a concern if the tradition in this place is that the Leader of the Opposition should have been recognized, or the first person to stand should have been recognized. These two people did rise before Senator Joyal.

Honourable senators, I am also concerned about the fact that there was no opportunity to debate Senator Murray's motion. If two members can just rise and call for closure on a motion, that could have a serious impact on this place and how we operate. I noted that concern on the night of the debate.

Closure has always been, from the time I was in the other place until I came here, something that was used in a rare circumstance. It is a use of power over the minority, and minority rights have always been respected in our parliamentary system. If we fail to recognize that and fail to respect it, I do not know what will happen to an institution like this, or how we can carry on our business in the future, because this sets a precedent.

Honourable senators, I know that the job of the Speaker *pro tempore* is challenging. It is an onerous job, but when she is considering this point of privilege, I hope she will give serious consideration, which I am sure she will, to what we are trying to point out here this evening.

Hon. Consiglio Di Nino: Honourable senators, I, too, would like to add a few words in support of Senator Lynch-Staunton's position on this.

Over the last few years, more and more people have been questioning the validity, the importance and the value of this institution. What we have here is, in effect, an abuse of the rules that exist. I do not think that the rules to allow for time allocation were ever meant to deal with a private member's bill. As offensive as most honourable senators find it whenever it is used on either side — whichever government happens to be in power — one can at least justify its use under the notion that the opposition is holding up government legislation. It is an issue that the government has decided to stake its reputation on by producing a public document, a bill, which will be debated in Parliament, and then the electorate, the citizens, will make a pronouncement on whether that is acceptable or not.

We have raised a most serious here by allowing this procedure on a private member's bill, of whatever value, on whatever side of the issue one might be. I believe it is a mistake and we should not have allowed it. I hope that Her Honour and her advisers will take that seriously because I feel it will impact on a permanent basis on this institution, and we could be held to ransom by a small group of people who wish to push a particular agenda, which is not a government agenda, which is not an item on which an election can be fought where, in effect, you must go to the electorate and ask whether it is right or wrong. This does not happen with respect to a private member's bill.

Honourable senators, I think we made a mistake. If we can correct it, we should try to do that.

Hon. Serge Joyal: Honourable senators, let me say that I challenge the statement made by Senator St. Germain that I was up on my feet after Senator Lynch-Staunton and after Senator Cools. That is not the case. I challenge the honourable senator on this because I was listening attentively to Senator Murray's statement for an obvious reason. I had a vested interest, directly, in what he was saying. I stood here, behind my seat, and I got the attention of the Speaker and the Speaker recognized me.

Once I had been recognized, then Senator Cools started to try to get the attention of the Speaker and then Senator Lynch-Staunton. That is how it happened.

Senator St. Germain: For clarification —

Senator Joyal: I am sorry, senator — I would point out to Her Honour that I listened to the honourable senator.

Senator St. Germain: Senator Joyal challenged me and I never mentioned Senator Cools. I mentioned Senator Tkachuk. Perhaps he should get his points straight.

Senator Joyal: I was ready to listen to any other senator. I can give my version of the events. The honourable senator gave his version of the situation and I am allowed to give mine because I am being challenged directly.

Honourable senators, there is no provision in the rules that a motion, as introduced by Senator Murray, has to be put forward by a minister of the Crown, as stated by Senator Cools. If that were the case, we would be able to find one simple paragraph or one simple line to that effect. That does not exist in our rules. Therefore, I cannot concur with the first point made by Senator Cools.

On the second point that the integrity of the Speaker is being questioned because Her Honour would be the judge and a party in her own case, it is up to any senator who is not happy with a decision of the Speaker to challenge and call upon the Speaker's decision and have it submitted to a vote. It has happened before. I have seen it. I do not want to identify any senator here, but I have seen it happen. We voted and we made the decision to either uphold or to reverse the decision of the Speaker. Honourable senators, we must maintain the integrity of the position of the Speaker. That is a fundamental factor in how debates should be conducted in this chamber.

On the next point, when the previous question is called or is put forward, there is a specific rule in the Senate, 48(2), which provides for how that should happen and what should be done. What has been followed by the Speakers is what is stated in rule 48(2). If a senator is unhappy — as is our right, not to be happy with what happened — and the rules require to be changed, then there are ways to change the rules other than to raise a question of privilege. That would be trying to do what Senator Carstairs did some weeks ago. She wanted to change the rules and she moved a motion to change the rules, but not through the door of a question of privilege.

If honourable senators are unhappy with how we debate a private member's bill we can make changes. I am of the opinion that a private member's bill, either originating from this side or from the other side, should, by rights, be able to be put to a vote at a point of time and not only be the object of delaying tactics. If we believe that our rules do not provide for that, there is a way to address this issue, which is through a motion to refer the issue to the Standing Committee on Rules, Procedures and the Rights of Parliament, which study the issue and report back to this chamber.

Senator Stratton: You refused that.

Senator Joyal: I would be the first one to be open to discuss this, but not through the cloak or the title of question of privilege. I do not think it should be done that way, and I do not think that there is any question of privilege in relation to what Senator Cools has said.

• (2050)

Senator St. Germain: Honourable senators, for clarification, I never mentioned Senator Cools' name. I want you to get that straight. Do you want to challenge me? Challenge me any time. Make sure you have got it straight. I said Senator Tkachuk and Senator Lynch-Staunton, not Senator Cools. Is that understood?

Senator Joyal: I want to be understood by honourable senators.

In her previous statement, Senator Cools mentioned that she rose before I did, and that I had been recognized unfairly by the Speaker. If you did not mention it, Senator St. Germain, I apologize and I withdraw. I contend that you have maintained that Senator Lynch-Staunton as well as Senator Tkachuk were on their feet. I totally agree with that. Thus, I bend to you on that.

Senator St. Germain: Accepted.

Senator Lynch-Staunton: I do not think the argument about who got up first, who got up at the same time, or who got up last has anything to do with it, except that there was a time when, if a number of people got up at the same time, the Leader of the Opposition or the Leader of the Government would be recognized first. In this case, that was not respected. However, that is not a rule. It is a convention, or it used to be.

I have not challenged the propriety of Senator Murray's motion. Obviously, it was in order. What I do challenge, in order or not — and this is where my privilege was breached — was the refusal to even be allowed to debate it. That is where my privilege was challenged.

As soon as Senator Murray was finished, Senator Joyal was recognized to move the previous question. That was the end of the debate. It was an unprecedented motion on which no debate was allowed. I feel my privilege was seriously affected as a result.

Privilege has nothing to do with changing the rules; it has to do with being impeded in debate. That is what we are talking about now. We were refused debate on an important motion. If this is allowed to stand, it means that we are setting a precedent for similar action to be taken.

Honourable senators, I will not be around when it happens too often, but this Senate and the whole of Parliament will be negatively affected by it. God forbid that it should happen.

Hon. Jack Austin (Leader of the Government): Honourable senators, I rise in an endeavour to be of assistance to the Speaker in this matter, and not to take any partisan view with regard to Bill C-250. It is not a government bill and the government has played no role in using the rules here in any way, shape or form. However, a question of privilege has been put before the chamber and it is the obligation of senators to assist the Speaker when they feel they have some point to draw.

First, as a member of this chamber, I have a concern with respect to a closure motion on a private member's bill. I believe the practice has to be given further inquiry, and I would hope that —

Senator Lynch-Staunton: You voted for it.

Senator Austin: — the Standing Committee on Rules, Procedures and the Rights of Parliament would examine the four corners of the issue. It is a case that has more than a simple line of argument that should be addressed to it because there is the point that, at some time, Parliament should decide whatever business is before it. The other point is that Parliament and members of the Senate should be given the opportunity to have a fulsome debate. I shall not address the issue of whether there has been an opportunity to give a fulsome debate on Bill C-250; I shall leave that question to others.

However, we have a doctrine in parliamentary practice that argues that there is no question of privilege where there is an opportunity to deal with the decision of the Speaker. I would draw the attention of honourable senators to rules 33(1) and 33(2), which read as follows:

When two or more Senators rise to speak at the same time, the Speaker shall call upon the Senator who, in the Speaker's opinion, first rose.

(2) In the circumstances provided in section (1) above, before the Senator recognized by the Speaker has begun to speak, a third Senator may rise on a point of order and propose a motion naming another Senator who had risen and proposing that this other Senator "be now heard" or "do now speak," and the question on such a motion shall be put forthwith without debate or amendment.

I recall Senator Sparrow very recently attempting to use that rule. However, there was not a reversal of the decision of the Speaker in that particular case.

Thus, there was an opportunity, honourable senators, as I understand the proceedings that took place last Thursday, for some honourable senator to rise and have the view of this chamber under rule 33 as to which senator should be given the opportunity to speak. As that opportunity was not taken, I do not see how a question of privilege can arise now with respect to the decision of the Speaker with regard to which senator should be recognized.

Senator Cools: Honourable senators, I should like to respond to a couple of the issues raised.

I shall begin with Senator Austin. First, Senator Austin is treating this matter as a question of order while I have been raising a question of privilege.

Senator Austin also insists that it was open last Thursday for members to rise on a point of order and move that another senator be now heard, according to the rule he just cited.

Obviously, Senator Austin should look carefully at the record. If he were to do so, he would see Senator Stratton trying to raise a point of order, as well as myself trying to raise a point of order, and the Speaker was not hearing any of us.

I shall come back to the question of points of order and the questions of privilege. I had the option to raise this as a point of order. This is not a point of order. This is a question of the violation of every single member's privileges. I intend to come back to that in a moment.

If honourable senators look to page 894 of the *Debates of the Senate* for April 22, 2004, they will see that not only is the Speaker recognizing Senator Joyal over Senator Lynch-Staunton but that the Speaker is continuing through the process to be defending Senator Joyal and declining to take points of order. The custom here is that a leader is always called first by any Speaker. Senator Stratton was saying, "Point of order," as was I. That happened a lot even today. I was on my feet several times saying, "Point of order." Therefore, to my mind, there is no real argument that can possibly be treated as valid in this context that one could have done this when, in point of fact, any attempt to raise points of order was being met by blind eyes and deaf ears.

The other question that I should like to come to is Senator Austin's point on private member's bills. It is not good enough to say that the rules should be changed to allow X and Y in the future. The fact of the matter is that the practice, the custom and the usages of this place have preserved guillotine motions and these kinds of motions for government bills. Private member's bills have not had access to these kinds of procedures. It is pointless to say that it may be changed in the future. I am speaking about what has transpired now.

Honourable senators, I have been here for a lot of years. I know that the government gets what it wants, what it wishes, and when it does not want something, that something usually does not see the light of day in this place, except under rare circumstances.

I should like to dispute and challenge most of what Senator Austin had to say. The fact that a rule may go in a certain direction in the future does not impair the fact that it should be used as the rule here today.

I should like to move on now to deal with the whole question of what Senator Joyal said about who rose first.

• (2100)

Read the record; it is very clear. The record is crystal clear, complete with the confusion of the mixing of the motions.

Senator Joyal has talked about the integrity of the Speaker. I put a quotation on the record a little while ago in respect to the earnest need of the Speaker to act in an appropriate way in certain circumstances, and that action is what usually commands respect from the rest of the chamber. It is incumbent upon the Speaker to exercise impartiality.

I come now to Senator Joyal's assertion about two things. One is the *Rules of the Senate*, but first talks about the rule where he says senators are free to overrule, to appeal a Speaker's ruling. Honourable senators, that is on a point of order. This is not a point of order. Senator Joyal is confusing a point of order with a question of privilege. As a matter of fact, I have raised this question of privilege in accordance with rule 43, which states very clearly, "the earliest opportunity" afterwards; and this is the earliest opportunity afterwards. This does not in any way excuse or justify anything whatsoever for Senator Joyal to say, "Oh, well, senators could have appealed the ruling," because I am not questioning the Speaker's ruling in respect of the point of order, with which I disagree very strongly; I did not see fit to question it but I did see fit to raise a question of privilege.

I would like to come to one other point in respect of what Senator Joyal says could have been done. I will give him a suggestion of what I think could have been done by him Thursday. Thursday, I challenged Her Honour. I said:

Your Honour, you are required to follow the rules of the place. I wanted to speak to Senator Murray's motion.

I am reading from the Debates at page 895. I continued:

I was on my feet, ready to speak to Senator Murray's motion, which is an important motion and to which many of us want to speak, and you chose, Your Honour, chose to hear Senator Joyal first. It was your duty to ask, "Are there any honourable senators wanting to speak to that motion?" You did not do that. That is the practice and the rule of this place. The Speaker of the Senate has a duty when any motion is put to look around and to ensure that those senators who wish to speak do so. You did not do that. You chose to do something that is contrary to the rules of this place and to the practices of this place. I have to tell you that I am scandalized.

Honourable senators, Senator Joyal and Senator Austin are articulating what could have been done Thursday. If Senator Joyal was questioning my version of the events, he could have done that Thursday because right now the record stands as it does and the record shows very clearly that I said Thursday that I was on my feet and I saw Senator Joyal rise. I do not think that my recollection is inaccurate. According to Senator Joyal's reasoning, he should have questioned that yesterday, not today, when I chose to raise all of these events as a breach of privilege.

Honourable senators, I want to come now to Senator Joyal's interpretation of these rules. We have allowed a grand, great law of Parliament to languish in this country, and this jurisdiction in Canada is one of the most lacking. For example, we do not have a book on the procedure of the Senate as, for example, the Australians have. Senator Joyal's perception of this matter is that unless there is something strictly forbids something else, it is not forbidden. I would invite Senator Joyal to read the great masters of the law of Parliament. I am speaking of people like Gladstone and Lord Brougham and some of the great giants of this field. If honourable senators were to read them clearly, especially Gladstone, there would be no doubt that the guillotine motion and these closure motions came about as a tool in the hands of governments only, not private members but governments. Conditions had to be met that justified the invocation of that siege-like state of dictatorship, which is what these motions throw the house into.

I would challenge Senator Joyal because it is a very mechanical view of the grand law of Parliament to say that if there is not a rule saying exactly "it," "it" does not exist.

Well, I have news for honourable senators. Most of the grand laws of Parliament and most of the grand processes by which we operate have never made their way into the Senate rules. For example, there is not a Senate rule that says that a bill must have three readings; yet it is one of the oldest elements of the law of Parliament. It can be traced to the 1300s. The material is there.

It does not comfort me at all and it does not even affect me at all when one says that somehow this grand tradition of Parliament and ministerial responsibility is being reduced to nothing other than whether there is a rule or there is not a rule.

I invite honourable senators to examine this grand tradition of Parliament that was received into Canada in 1867. It is a grand tradition. I would tell honourable senators that the exercise of those two motions in the last two days is a huge, enormous, massive smear on the grand tradition of Parliament.

I would also add, honourable senators, that it is a grand smear on the liberal tradition of Parliament. If we want to talk about liberalism one day we should discover what it is. No one knows what it is any more. If I said to most people to articulate the first six principles of liberalism, I would get "tolerance" and "compassion." That is absolute rubbish. There were grand principles that were well articulated and I invite senators to look at them.

Honourable senators, the fact of the matter is that something very bad and very wrong happened in this place. It is more than a question of order and more than appealing a ruling. It is a breach of the privileges of this place because it impairs the ability of senators to do their job as members of Parliament. That is what I am saying.

It is unfortunate, in a way, that Her Honour is in the Chair today and that she was in the Chair this day, but our rules, quite frankly, assume that we would not be in this situation. Obviously, that is proven to be an incorrect and poor assumption, but Her Honour was in the Chair that day. She participated in these events as though she were in her own seat. She could have done all that. There is nothing wrong with that at all. The rules allow her to go to her seat and participate as any member, to rise and speak for or against the bill. However, when she is in the Chair, it is a different matter.

I would submit to honourable senators that the Speaker *pro tempore* is in the Chair today and was in the Chair when these events happened, as Senator MacEachen used to say, under her watch; and since she is now the person who will make this ruling, I do not know where else to go. It seems to me that what Senator Joyal is really saying is that the alternative is to do nothing and to say nothing. I have a few difficulties with that point of view.

The Hon. the Speaker *pro tempore*: Honourable senators, I have been listening very carefully to the discussion on the question. I want to thank you for all your presentations. I will take the matter under advisement, and we will now resume debate.

[Translation]

Hon. Pierre Claude Nolin: We have not concluded government business. We are still at Item No. 2.

• (2110)

[English]

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, it was my understanding that we would resume debate on Bill S-9 with Senator Maheu because she was interrupted when the sitting was suspended earlier. The advice I received was that we had to do that because that was where we left off. My intention, once Senator Maheu has finished, would be to ask for leave to revert to Bill C-7. I understood that Senator Stratton and I had a discussion along those lines.

Senator Stratton: No, no.

[Translation]

Senator Nolin: It was refused, so I presume I am being asked to speak. I am prepared to speak under government business.

[English]

Hon. Terry Stratton: Honourable senators, to make it abundantly clear, it was agreed that when the sitting was resumed we would go to Bill C-7 and then to Bill C-250. That

was the agreement we had worked out. It had nothing to do with Bill S-9. I was informed that Senator Maheu wanted to speak to Bill S-9, but I was not told that it would be first up or even on tonight. We had agreed to go to Bill C-7.

Senator Andreychuk: Let us adjourn until tomorrow.

Senator Rompkey: We are in the hands of the Speaker. If the Speaker decides that we should go to Bill C-7, we are happy to do so.

The Hon. the Speaker *pro tempore*: Is it agreed, honourable senators —

Hon. Shirley Maheu: I was standing to speak when the time came to ring the bells. I assumed that I had the floor.

Senator Cools: Honourable senators, I had inquired because I found it odd. I do not think I was dreaming, but when debate was suspended for the vote, I was under the impression that Senator Chaput was not finished in respect of Bill S-9 and that she had yet to field questions.

Senator Rompkey: Senator Chaput had finished speaking.

Senator Cools: I said that I wanted to ask questions. I raised that about half an hour ago, when I inquired whether debate had been adjourned. I thought the house should return to Bill S-9 so that Senator Chaput could field questions. I clearly understood that debate was adjourned, and I might even have said that. I then agreed to proceed with my question of privilege.

Honourable senators, it is not my style or my way to bump other senators; I have never done that.

Look at the contempt towards me.

Senator Rompkey: Could honourable senators agree to hear Senators Maheu and Nolin, and then proceed to Bill C-250? Is that agreeable? I simply want to follow the order that we are enjoined to follow by the Table. My understanding was that Senator Maheu had not finished and would have the floor when the sitting was resumed because she had the floor when the sitting was suspended.

Therefore, it is my suggestion that honourable senators hear from Senator Maheu on Bill S-9, then move to Bill C-7 to hear from Senator Nolin, and then move to Bill C-250. That is my suggestion.

Senator Stratton: That is not the issue. The previous speaker to Bill S-9 was cut off when the sitting was suspended for the vote. The house then conveniently moved immediately to someone else to speak. That is the problem. I would suggest to the house that, for the convenience of all honourable senators in this chamber tonight, we go to Bill C-7 and then to Bill C-250. Tomorrow, the honourable senator may speak to Bill S-9. What is the problem with that? Why not tomorrow? Why tonight? Why not deal with Bill C-7 and Bill C-250 in the way that we had agreed? Surely to goodness the senator could speak to Bill S-9 tomorrow. Otherwise, we need to go back.

The Hon. the Speaker *pro tempore*: Is it agreed, honourable senators?

Senator Rompkey: If Senator Maheu is prepared to stand Bill S-9 until tomorrow, we could agree to move to Bill C-7 and then to Bill C-250.

The Hon. the Speaker *pro tempore*: Is it agreed, honourable senators?

Senator Maheu: I understand that we will vote at three o'clock tomorrow. If I can be the first to speak after the vote, it will be fine with me.

Senator Lynch-Staunton: No, we will follow the order — no privileges.

Senator Rompkey: Tomorrow, the Orders of the Day will be followed, and as the item comes up, it will be called.

[Translation]

PUBLIC SAFETY BILL 2002

THIRD READING—MOTION IN AMENDMENT— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Day, seconded by the Honourable Senator Léger, for the third reading of Bill C-7, An Act to amend certain Acts of Canada, and to enact measures for implementing the Biological and Toxin Weapons Convention, in order to enhance public safety.

Hon. Pierre Claude Nolin: Honourable senators, I will be very brief. We are not held to perfection, but that is what we aim for. Honourable senators, if some parliamentarians still believe that Parliament's decisions are supreme, then they need to come back down to Earth. Since 1982, the Supreme Court and Parliament have been engaging in a sort of dialogue: we through our legislation and the Supreme Court through its rulings. There exists a certain dialogue between the two.

If we do not aim for perfection, in the form of good legislation, legislation that respects the Constitution, the Charter, constitutional conventions and basic human rights, then in a few years the Supreme Court of Canada will say to the Parliament of Canada: "You have not done your job. We will suspend the legislation, as we have done in the past. Do your work and in six months or a year, our ruling will take effect."

I am not saying this is a common occurrence, but it has been known to happen. And when it does, we hear voices of protest in the other place and here saying that the Supreme Court is usurping the so-called ultimate authority of Parliament.

Honourable senators, this is without a doubt a very controversial bill that requires us to pose some questions on the extremely delicate balance between rights, the right to protect the safety of Canadians and, at the same time, protect the fundamental privacy rights of those same Canadians. It is our responsibility to find this balance.

I listened with great interest to the speeches at second and third reading by Senator Day and Senator Andreychuk. I think they are both right. To assess this consent, it depends on the spirit in which these senators spoke.

Senator Day believes that public governance can help maintain this delicate balance. If I can summarize the 45 minutes during which he spoke very eloquently, I might add, he basically said that public governance, with the existing government power structure, will be able to ensure this balance.

Senator Andreychuk has a different perspective and says that this is a delicate balance and explained why we should perhaps continue to consider the control mechanisms in the bill.

I will give you an example. For nearly two years, a special committee of this Chamber considered Canada's past and present public policies on illegal drugs. We even discovered legislation that, under the guise of repressing or prohibiting drugs, gave police and government powers that it dared not assume to repress or prohibit other offences.

That is why the Controlled Drugs and Substances Act and its predecessor, the Opium Act, were not included in the Criminal Code.

• (2120)

This was a distinct law, one giving the police a series of powers that were contrary to the fundamental rights established by case law and the courts. In some cases, it has taken close to 80 years to restore the balance.

Take the example of the reversed burden of proof. If an offence were introduced into the Criminal Code today requiring the accused to assume the burden of proving that the police were wrong to arrest him, would we vote in favour of such a law? I think not. Yet in 1911, the Parliament of Canada did enact just such a law. Only in 1985 did Parliament decide that maybe this had been a mistake.

In closing, I will suggest that we pass a bill that is definitely useful. It would appear that the government majority is going to bring pressure to bear to get the bill passed. Why not retain the possibility of revisiting this bill after a few years, in light of what the courts have had to say about Bill C-36? We have barely touched on the power of the judiciary power. The judiciary has only just begun to examine the anti-terrorist legislation.

MOTION IN AMENDMENT

Hon. Pierre Claude Nolin: I move, seconded by Senator Lynch Staunton,

That Bill C-7 be not now read a third time but that it be amended, on page 103, by adding after line 26 the following:

“Review and Report

111.2 (1) Within three years after this Act receives royal assent, a comprehensive review of the provisions and operation of this Act shall be undertaken by such committee of the Senate, of the House of Commons or of both Houses of Parliament as may be designated or established by the Senate or the House of Commons, or by both Houses of Parliament, as the case may be, for that purpose.

(2) The committee referred to in subsection (1) shall, within a year after a review is undertaken pursuant to that subsection or within such further time as may be authorized by the Senate, the House of Commons or both Houses of Parliament, as the case may be, submit a report on the review to Parliament, including a statement of any changes that the committee recommends.”.

Hon. Marcel Prud'homme: Honourable senators, I would like to speak to you off the cuff, as Senator Carstairs did so well last week in Mexico. I will offer a tribute to her this week or next. Instead of speaking tomorrow, I will do so now, without a prepared speech, as was suggested to us at the Inter-Parliamentary Union.

Senator Carstairs chaired one of the most difficult committees I have seen in 40 years, the special committee on the Middle East. And she was able to obtain a resolution that was unanimously approved by all 142 countries present.

Honourable senators, there is nothing worse than the fear of being afraid. And you will see in the months and years to come why I say such a thing. I have no intention of leaving the Senate without revealing a few of the ignominies that a number of senators, members of Parliament and public figures have had to endure.

When I arrived in the Senate, and also when I was an M.P., I was always amazed, when attending various receptions in the quarters of His Honour the Speaker of the Senate, to see this inscription above the doors, “ordre exclut hâte et précipitation.” It is in Latin and I shall translate it into English.

[English]

“Nothing is well ordered that is hasty and precipitate.” The other one that I am sure Mr. Trudeau would agree with is that “It is the duty of the nobles” — this is very bad in English so I will switch to the French version.

[Translation]

It is the duty of the nobles to oppose the fickleness of the multitudes.

And the last sentence reads, “We must be guided by reason rather than public opinion.”

We know that right now the world is consumed by a kind of paranoia about the international situation. This leads to the creation of new legislation.

Around midnight last night at the Toronto airport — by the way, you have to be a genius to find your way around this airport — I saw young people from Quebec City being treated in an almost humiliating way. Was it racism? I saw extremely happy people, returning from Jamaica, shoved around and treated like no member of this Senate would like to be treated.

I observed, I took notes and wrote down names. I was truly horrified. Why? Because people are being consumed by fear, the fear of being afraid. Out of fear of being afraid, we draft bills that appear to give us a certain security. But at what cost?

I voted for the War Measures Act in 1970. I will never forget that day. I was the last holdout.

• (2130)

[English]

In the Liberal Party, I was given permission to speak in return for voting for it. I stand by what I said then, in 1970. For those honourable senators who may not know, once in a while — you can see it on television, where I said to people, “Please, be calm.” That is probably the only time I made television. It is in the film about Pierre Elliott Trudeau. Be calm, Canadians. Be Canadian. Do not panic. In the name of panic, we come to things like Bill C-7, and other things.

One of the reasons the Senate exists, one of the reasons why it should exist, and why I am so active in the international parliamentary union, is to see more and more countries in the world who are deciding to go along the road of democracy but then say, “Maybe we need two chambers.” In Canada, we are currently going through a time when, for all kinds of reasons, people need a scapegoat.

It now seems that, in the next election, the Senate may be a convenient scapegoat for electoral reform. I am not of that opinion. We are here until Canadians — not scholars, not the press, only Canadians — decide, after being well informed, on the role that the Senate could play in the protection of civil liberties and in front of masses of people who may be in total panic. The Senate will have proved its worth in Canada, where we have a second chamber that can reflect and cannot be pushed around.

If honourable senators want the Senate to be respected in this country — that is, if honourable senators really want the Senate — not as it is now but, perhaps, a Senate where senators are appointed for, say, 15 years. Brian Mulroney, a classmate and friend of mine — I know he disturbed a lot of people, but I had a good relationship with all the Prime Ministers — consulted about who should be appointed, in the spirit of Meech Lake. That is why we had distinguished senators like Senators Beaudoin, Bolduc, Chaput-Rolland, Poitras and Ottenheimer, who have left.

I do not mind the idea of Senate reform. However, if Senate is really desired, we have to tell people what it will cost, what it will mean, et cetera. Our role is not to panic, not because something terrible is happening tonight. These young Americans who voluntarily joined the army in the United States are now being killed in Fallujah tonight. Can we not reflect on all these issues? Can we not reflect on where panic is pushing honourable senators tonight? Do not worry, Canadians. We have everything under control, at immense cost, instead of trying to learn what brings us all in to accept bills.

Even in my absence, my first in 11 years, I continued to send messages to my office, asking, "Send me everything, more than ever." I telephoned all my old staff, to ask them, "What is going on," because I wanted to know, minute by minute, almost, what is going on in the Senate and in Quebec and in Canada.

Honourable senators, I do not think that we are doing a good job in being pushed, in being demanded and in being pressured. We are the Senate of Canada. We are here to be calm — even though passionately. After what I have seen tonight, I am glad the proceedings of this place are not televised, because Canadians would be shocked to see our debates on the rules of this place. However, in times of a big debate, I often wish that certain debates could be televised, so that Canadians would say, "My God, I did not know the Senate was all about that."

That is why I have voted against previous incarnations of this bill, but only when it was time to be called. That is why, at the end of the day, I will probably vote for the revision of this bill.

I would have preferred Senator Nolin to say not the House of Commons or the Senate. I would prefer a joint committee, because I am a senator. Until Canadians decide what to do with us, I would prefer a joint committee. If this bill were to pass, at least there should be a sunset clause in it, so that Canadians will say that there is a last court of resort. This is the last possibility to protect what it is to be Canadian. What signal are we sending to the world? A signal of panic?

I am a tougher guy than I look. If you are wrong, if you are bad, you pay. Maybe some day, Senator St. Germain will be happy to reveal all the conversations we had when we were seatmates here. I am an ex-provost corps. "Provost" means military police. I received my military training in Shilo, Manitoba. I may smile a lot, but when it comes time to make a strong decision, I want to be absolutely sure that I am doing my duty. I am no longer a member of the House of Commons who may, at times, be pushed because of popular pressure. That is why the Senate was invented. Maybe a majority tonight will decide, either tonight or tomorrow, that I am wrong and vote in a certain way. I am a democrat. I will bow to the decision of the majority. However, before we take that ultimate decision, after having read almost everything that was written — not only on this bill but on the previous bills as well — I think honourable senators should have a long night of reflection, a long day; come what may, if there is to be an election, well, let it be.

My father delivered over 9,000 babies. I even helped him when I was 14 years old, in the country, when there was no one to assist him. He said, "When the baby wants to come out, it has to come out, whatever you do." If there is an election coming, well, let it be. Let us not let this go to our heads, and say, "There may be an election, so we must pass every piece of legislation."

With all due respect to Senator Fraser, who chaired that committee — and who, by the way, was elected to one of the highest positions for women in the IPU last week, for which I congratulate her — I would have preferred, and I said it at that time, that this bill to be referred be sent to the Standing Senate Committee on Legal and Constitutional Affairs and not to the Standing Senate Committee on Transport and Communications.

• (2140)

Hon. Tommy Banks: Honourable senators, I have listened very carefully to all of the arguments concerning Bill C-7. I subscribe heartily to the idea that Senator Nolin has put forward tonight, that balance ought to be sought, which I think everyone knows.

I will ask one final question of Senator Day. I know that he will be happy to know that it is my final question. The record will show that it is the same question, more or less, that I asked him on the day that he introduced this bill. It deals with the review, which is contained in the present amendment.

I have no doubt that Senator Prud'homme is right when he says that we must not rush into these things, but I do not think we are rushing into these things. I think all the things that are contained in this bill, all the extraordinary — and they are extraordinary — powers that are given under this bill are necessary in the present circumstances, and I do not think that anyone has rushed into that. I take great comfort from the fact that Senator Day has explained to me, and to the chamber, that this bill grants no extraordinary power to ministers that would bring about regulations which could not otherwise be brought about, and in the terms of this bill, would only be brought about in emergent circumstances. It is constrained by that.

I think that all of the measures that are granted to the administration in this bill are, in the present circumstances, necessary. They may be necessary forever. One hopes not.

However, I would ask Senator Day, because he is the sponsor of the bill, assuming that we all agree that the measures that are taken in this bill to grant those extraordinary powers are necessary and that they will be granted, in what way is the effect of that detracted from in any substantive way by a process of review, such as is proposed in the present amendment?

Hon. Joseph A. Day: I think I could handle this —

Hon. John Lynch-Staunton (Leader of the Opposition): Point of order. The question should have been addressed to Senator Prud'homme.

Senator Banks: I apologize for putting it as a question. It was my contribution to the debate.

[Translation]

Senator Day: Honourable senators, I would like to examine the motion in amendment proposed by the honourable senator. With leave of the Senate, I move that debate be adjourned until tomorrow.

On motion of Senator Day, debate adjourned.

[English]

Hon. Bill Rompkey: Your Honour, I think you would find agreement now to move to Bill C-250.

The Hon. the Speaker pro tempore: Is it agreed, honourable senators?

Hon. Senators: Agreed.

CRIMINAL CODE

BILL TO AMEND—THIRD READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Joyal, P.C., seconded by the Honourable Senator LaPierre, for the third reading of Bill C-250, to amend the Criminal Code (hate propaganda),

And on the motion in amendment of the Honourable Senator St. Germain, P.C., seconded by the Honourable Senator Stratton, that the bill be not now read a third time but that it be amended, on page 1, in clause 1, by replacing lines 8 and 9 with the following:

“by colour, race, religion, ethnic origin or sex.”.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I begin my remarks by — and if I am declared out of order, it does not bother me — I want to deplore again what the majority of the Senate decided just a few hours ago, not only to accept a motion to impose closure, as opposed to time allocation, on a private member's bill, but even worse, to deny all members, except the proposer, the right to speak to it. I just cannot believe that this is what the chamber of sober second thought has agreed, and that is to have itself neutered without even a whimper.

That being said, on Bill C-250, I, for one, am greatly disturbed at how this debate has evolved, as it did last week, when we had to listen to another diatribe from Senator Murray, this time to the effect that any member of this chamber once formerly identified with the former Progressive Conservative Party of Canada, which since last December has merged into the Conservative Party of

Canada, any member of that party who votes against Bill C-250 is, according to my honourable friend, to identify with those he claims “have never supported a single human rights initiative or a single initiative for minority rights.” He added:

I say to my friends that they can don that mantle if they want or they can follow the examples of Diefenbaker, Stanfield, Clark and Mulroney.

I decided that since Mr. Diefenbaker was the only one to speak to the original bill which set out hate propaganda, to go to the debates of that day. No contemporary parliamentarian was more consistent and adamant in the pursuit of human rights and in the defence of minority rights than John Diefenbaker. As early as 1922, in Saskatchewan, he appealed on behalf of French-Canadian trustees against a conviction on the teaching of French in the schools. He was the only Progressive Conservative member of Parliament during World War II to condemn the treatment of those of Japanese descent in British Columbia. He condemned the denial of habeas corpus to those identified as spies by Igor Gouzenko in 1945. Of course, his greatest single achievement was the Bill of Rights, which became law in 1960. So it was only natural that to have a better understanding of the purpose of the act which Bill C-250 amends that I seek out Mr. Diefenbaker's appreciation of it.

On April 9, 1970, then Minister of Justice John Turner moved third reading of Bill C-3 to amend the Criminal Code. Mr. Diefenbaker spoke immediately after, and I intend to quote extensively from his comments, as his argumentation then is just as persuasive today as it was at the time. Those who want to see the complete transcript of his remarks can find them in the Hansard of the Commons, beginning at page 5679.

After praising Eldon Woolliams, who was then member for Calgary North for outlining, as he said, “on behalf of Her Majesty's loyal opposition, the views of his party with clarity and distinction,” Mr. Diefenbaker said:

No piece of legislation that has been before the House has given me the same concern as this bill has. I dealt with it in Toronto when B'Nai B'rith had a dinner at which I was one of the speakers. I pointed out my opposition to this bill and outlined that opposition in general. One thing I will always treasure is the fact that while many who were present did not agree with my views, when I concluded they gave me an unanimous ovation. This indicates the attitude of Canadians as a whole as we view those sayings which from time to time require to be decided by the House.

Having endeavoured throughout my life to uphold freedom and to maintain freedom both at the bar and in Parliament, I am deeply concerned that what is taking place here is another step down the slippery slope to silencing the voice of disagreement.

Later he said:

I shall not become involved in a discussion of the meaning of the word “freedom.” It means something to each of us. To me it means the right to be wrong, not the right to do wrong. It includes the right to say what others may object

to and resent. The only freedom of speech that has any meaning at all is the one that gives me the right to say the things that run counter to the general views of people as a whole, subject of course to the limitations of libel, slander, blasphemy and sedition.

He continued:

Are we to define freedom as meaning the right to express only such views as are acceptable to the overwhelming mass of the people. That is not a very valuable kind of freedom. The essence of citizenship is to be tolerant of strong and provocative words. Liberty confers duties and responsibilities, one of its duties being to be tolerant of those who express views which may offend. We often hear certain words credited to Voltaire, who never used them at any time. It was Daniel Webster who used the words, "Though I may disagree with everything you say, I will fight to the death for your right to say it."

Mr. Justice Brandeis of the United States Supreme Court, whose nomination as a Justice was opposed because he was a Jew, uttered these words:

• (2150)

If there be time to expose through discussion the falsehood and fallacies, to avert the evil by the processes of education, the remedy to be applied is more free speech, not enforced silence.

These are words that honourable senators should take to heart. I include particularly those who thought it appropriate to bring down the guillotine on this private member's bill which has, as its primary effect, a chill on freedom of speech, an irony which would not have been lost on Mr. Diefenbaker, as he continued:

What he said represents my philosophy of life. From time to time I quote Burke, and he is quoted even by Liberals today. He said: "The true danger is when liberty is nibbled away for expedients and by parts."

He also said: "The people never give up their liberties but under some delusion."

Finally, I will recite a quotation from Mr. Diefenbaker's speech in which one of the most respected civil libertarians that this country has ever known is the subject:

I have said over and over again I have no objection to the genocide portions of the bill, although Dr. Frank Scott thinks there is no need of them at all. How many hon. members of this House have read his words? I have not always agreed with him but he was a shining, effulgent leader of the CCF, and subsequently of the NDP in the field of civil liberties. His cause had many recruits. Many have followed him. I am interested to learn when it is that that party departed from the views expressed by him.... Furthermore, I doubt whether there is a lawyer across the

country affiliated to the Civil Liberties League who has not condemned this legislation.

What did Professor Scott say? He said that he did not need to contend that he was as much against hate propaganda as anyone but, nevertheless, he could not subscribe to the principles inscribed in this bill. He could not consider them anything but dangerous of adoption and inclusion in our criminal law at this time. Then, he gave four reasons for his opinion. He said, first, that this bill was retrograde. It certainly is. The advances which have been made and which culminated in the Drybones case are now to be sliced away. He said, secondly, that he thought it was unnecessary; third, that it was dangerous, and fourth, using a non-legal expression, that it was old-fashioned.

Sir, Dean Scott referred to the various cases in which the concept of human rights, in a series of magnificent decisions in the Supreme Court, has been increased throughout the years. There is the Boucher case, and five or six others. He concluded by saying that he thought this legislation was dangerous.

Many would point out that Mr. Diefenbaker's speech in April of 1970 was 35 years ago, and the years have shown that many of the fears expressed then have proven unfounded, that freedom of speech has not been infringed on over time, as the bill's sponsor in the other place pointed out during committee hearings when he said:

Since 1970,...there have been only five prosecutions under the hate propaganda sections of the Criminal Code.

This results from the Supreme Court, in upholding the hate propaganda provisions and setting a very high threshold for prosecution.

Does time take away from Mr. Diefenbaker's position, supported, by the way, by 32 of his Progressive Conservative colleagues out of the 39 voting, with only seven approving the bill?

Not at all. The anxieties regarding the sanctity of the freedom of speech are as valid today as they were then. The Supreme Court no doubt took note of Mr. Diefenbaker's position, and I dare say its setting the threshold for prosecutions was greatly influenced by it and others such as Frank Scott's. Put another way, dare one imagine how Bill C-3 — the bill at the time — would have been applied and could have been applied had Mr. Diefenbaker not led the opposition to it?

The sponsor of the bill before us today, the sponsor of the bill in the House of Commons, when he appeared before the Standing Senate Committee on Legal and Constitutional Affairs, made this telling statement:

This bill is largely symbolic; I would be the first person to concede that. There will not be a lot of prosecutions under this legislation.

Here we are, in the sponsor's own words, being asked to support a bill which is largely symbolic, meaning that it will be enforced on rare occasions, if at all, with chances of success questionable at best. All Bill C-250 seems to do is raise unfounded hopes by those who support it and false fears by many who oppose it.

Is this what parliamentarians are here for, to debate legislation that by its author's own admission "is largely symbolic" and given to excessive interpretations by supporters and opponents alike? Surely there should be no place in the Criminal Code for purely symbolic laws.

What troubles me most is that Bill C-250 is pitting what I would loosely define as secularists against what are commonly known as fundamentalists, or small-L liberals versus evangelicals. The first show little tolerance towards the second, who in turn cannot accept a way of life different from their own. As a result, the division on Bill C-250 is being put forward, as Senator Murray did in no uncertain terms last week, as one being based on whether one is for or against human and minority rights.

I find that conclusion repugnant, as I do statements to the effect that the party to which I belong has abandoned all Progressive Conservative principles. The last one to go down this road, just the other day, is the same one who, as leader of the Progressive Conservative Party, gloated in Edmonton, in September 2001 over the formation of a coalition made up of elected Progressive Conservative members and nine members of the then Canadian Alliance. One of the coalition's main objectives was, according to a press release from that September:

To include and involve members and supporters of the Progressive Conservative Party, the Canadian Alliance and others who share our goal.

One of the nine Alliance members was the member for Saskatchewan—Humboldt who, at the time, had on the Order Paper, a private member's bill aimed at limiting the application of the Official Languages Act to areas where the linguistic minority represented at least 25 per cent of the population. This violation of fundamental Progressive Conservative policy did not stop the coalition leader from naming him Public Works and Government Services critic.

How revealing that the same person who welcomed the member for Saskatoon—Humboldt to the coalition, despite his opposition to the Official Languages Act, now lashes out against the leader of the Conservative Party who refused his return to the Alliance party when he was its leader.

I would urge Senator Murray and others who, seeing success where they failed: Do not hesitate to condemn the Conservative Party at every opportunity, and to at least read what the party stands for. They may not like the way the merger took place or what led to it, but that is no reason to typecast it as being against every fundamental value they have upheld their entire political lives.

The agreement in principle on the establishment of the Conservative Party of Canada, dated October 15, 2003, listed a number of founding principles, including "a balance between fiscal accountability, progressive social policy and individual rights and responsibilities,"; "a belief in the equality of all Canadians,"; "a belief that English and French have equality of status, and equal rights and privileges as to their use in all institutions of the Parliament and Government of Canada"; —

Some Hon. Senators: Hear, hear!

Senator Lynch-Staunton: — and "a belief that all Canadians should have reasonable access to quality health care, regardless of their ability to pay." This agreement was supported overwhelmingly by members of both merging parties, and the founding principles are at the heart of the Conservative Party policy statement.

I apologize to those who believe that these last remarks are not germane to the order before us, but Senator Murray, during debate last week, regrettably attempted to identify opponents to Bill C-250 as disinterested in human and minority rights. Do I assume he includes in this group seven former Progressive Conservative members of Parliament who voted against Bill C-250? The bill sets out to accomplish little except to be symbolic.

Experience with the hate propaganda section of the Criminal Code that Bill C-250 amends shows that the section can only be applied in the most extreme of extreme cases.

Calling someone "nigger" or "fag" is not hate propaganda, but can be as hurtful as the most vicious of anti-Black and anti-homosexual publications. Legislation is fine by itself, but alone it is ineffective. What is needed is more tolerance, more understanding and more respect. This can largely be achieved through family example and education at a young age.

As I said at the beginning of my remarks, the negative tone of the debate by some of the supporters of Bill C-250 has proven unnecessarily divisive. It will have little, if any, impact. To engage in anti-homosexual ranting is no more helpful than to accuse of intolerance those with strong feelings again the bill.

I do not share some of the interpretations of how certain religious teachings could be affected, but I respect their views, nonetheless, because I do consider them well-intentioned and honestly felt.

Nicholas Kristof so aptly put it in last Saturday's *New York Times* when he said the following:

It's always easy to point out the intolerance of others. What's harder is to practise inclusiveness oneself. And bigotry toward people based on their faiths is just as repugnant as bigotry toward people based on their sexuality.

Honourable senators, while I hope that the author of this bill is correct in his assertion that the bill will have little or no effect, I do not see this as a compelling reason to support the proposed legislation.

Provisions of the Criminal Code should not be inserted purely for symbolic reasons. If this provision should turn out to be other than symbolic in its operation and ends up being a significant and effective inhibitor of freedom of speech, I would look back on a vote in favour as being a vote to assist in the destruction of the principles on which this nation was founded.

On the other hand, the debate and argument surrounding Bill C-250 have been such that any who now might vote in opposition to it risk being identified with extreme views, views that I reject wholeheartedly.

The quandary in which I find myself has been exacerbated by Senator Murray's use of a closure motion combined with Senator Joyal's guillotine motion. While it is possible that I would have ended up supporting the symbolism of the bill, I can hardly do so when the primary proponents of the bill have arbitrarily decided that they have heard enough and have effectively blocked others in this chamber from expressing their views. A self-proclaimed Progressive Conservative, working in harmony with a Liberal, to prevent free speech on a bill that prevents free speech is certainly an oddity, one that will not soon be forgotten.

Mr. Diefenbaker's opposition to the sections of the Criminal Code that this bill seeks to amend by extension is a matter of record. I am not certain how he would have resolved the conflicting interests here, nor am I sure that they can be resolved.

Hon. A. Raynell Andreychuk: Honourable senators, I first wish to thank Senator Lynch-Staunton for his words, because he has been so intricately involved with the process in the Senate. His words need reflection by all of us, not only on Bill C-250, but on much of the conduct within this chamber and in the coming years.

I rise to express my concern about the debate on Bill C-250. Both opponents and supporters should reflect on how the process emerged. From both sides, the manner and attitude that has been displayed at times are such that they do not, in my opinion, further tolerance and harmony in our diverse society on this very emotional topic.

At first blush, Bill C-250 did not seem to generate the kind of emotional outpouring that one saw. However, it was against the backdrop of other legislation, the political atmosphere of these times and the uncertainty about the immediate future that I believe drove this issue.

One consequence to the Senate has been the use of closure, which honourable senators have just heard discussed with Senator Lynch-Staunton, for purposes other than normal historic reasons for closure. The Rules Committee or this Senate in total will have to deal with this matter, as I believe that there will be many unintended consequences of this action and perhaps very detrimental to this chamber.

Bill C-250 is about hate propaganda. If it can be proven that there is hate being propagated against an identifiable group, it will lead to a criminal charge. I would not have started enumerating groups, as societies change and opportunities for progress in these fields should be taken into account. Change for the negative is also a fact and new groups become targeted.

It would have been better if either the groups were identified by the government or, more properly in my opinion, no groups were identified. Hate propaganda against any group identified today, yesterday or tomorrow should not be tolerated. Why should one have to reach and claw to be added as an identifiable group?

One should have left hate propaganda as simply intolerable, and not pit one group against the other as we try to identify groups in society, particularly in such a diverse society as Canada's. Once we enumerate groups distinguished by colour, race, religion or ethnic origin, then it naturally flows that adding to the definition is possible and the only way to go, unless we are ready to change our entire approach to this issue.

It is not merely adding to the definition, if you can find an identifiable group, but the test is as to whether there is potential by past or present examples of hate propaganda against a particular group.

I believe there was ample evidence to indicate hate propaganda against groups of one "sexual orientation." Those who legitimately oppose Bill C-250 do so with good justification and their concerns cannot go unheeded.

I would encourage all honourable senators and others to read the testimony of Ms. Janet Epp Buckingham, Director, Law and Public Policy, General Legal Counsel, Evangelical Fellowship of Canada. I found her evidence to be extremely fair, cogent and germane to Bill C-250.

While there were other witnesses who gave good evidence, many strayed to define their positions on a broader issue, which is not the essence of Bill C-250.

Ms. Epp Buckingham's testimony was the true sentiment and concern of those churches and religious believers who have a real concern about the impact of Bill C-250 on freedom of expression and freedom of religion, and the "chill factor" on both.

Honourable senators, I shall read a portion of Ms. Epp Buckingham's testimony before the Standing Senate Committee on Legal and Constitutional Affairs. She stated:

Honourable senators, thank you for the opportunity to address this committee. The Evangelical Fellowship of Canada is a national association of Evangelical Christian organizations, including 39 denominations, 100 religious organizations and about 1,200 churches. Our affiliated denominations include Baptists, Mennonites, Christian Reform, Pentecostal and Salvation Army.

Among our affiliates are several organizations that distribute Bibles, such as the Gideon's and the Bible League. Distribution of Bibles and Christian literature are an important aspect of Evangelical Christians' religious practices. I am the Director of Law and Public Policy. I am a lawyer by training and will be raising issues of concern in the legal interpretation of Bill C-250.

As a background principle, I need to stress that our organization neither condones nor supports the promotion of hatred or acts of violence toward any person, nor do we condone speech that incites people to violent acts....

Looking first at sacred texts, I wish to point out — and this seems obvious — that the Bible is a sacred text, as is the Koran and the Torah. Believers accept these texts as the Word of God. It is immutable, meaning that we are not at liberty to change the text. I need to state this clearly because at least one senator has stated that if the Bible has material that is negative to gays and lesbians, we ought to remove it. We cannot remove it. That is why it is called "sacred" — the meaning of the term.

My understanding is that sacred texts fall under the protection of religious freedom in section 2 of the Charter. However, I urge honourable senators not to simply leave it to the courts to protect religious freedom. As legislators, senators have a role to play in protecting religious freedom.

• (2210)

I share these and other concerns about Bill C-250, even though a defence was added to the bill. While private prosecutions can only be brought with the consent of the attorney general, Bill C-250 should only be brought and used for hate propaganda as envisioned in sections 318 and 319 of the Criminal Code. Dr. Charles McVety, President of the Canada Christian College, was concerned about the right to debate the direction of society in Canada on these delicate moral issues without finding oneself before a criminal court. Ms. Buckingham, in her testimony, also stated:

My concern is that when I hear people saying, "It is your religious views that are causing that violence," that is not Christian teaching. However, if that is the perception of the gay community, then they will be targeting religious expression. I do not think there is any link between those two.

We do have laws in place against violence. We have laws specifically in place against hate crimes, including on the basis of sexual orientation. I think those laws should be enforced.

In the Standing Senate Committee on Legal and Constitutional Affairs I questioned Ms. Buckingham on whether Bill C-250 served a purpose when someone could misconstrue the messages of particular religions and take up arms in the name of religion,

thereby making it legitimate. I asked her whether there was a crossing over from peaceful teachings to the use of violence. Ms. Buckingham replied:

My concern stems from the fact that already people have used religious texts in a way that has promoted hatred. I am thinking particularly of the *Hugh Owens* case in Saskatchewan that was brought under the Saskatchewan Human Rights Code. Unfortunately, when the court made its decision, it did not nuance things that way. The decision simply talked about Biblical texts promoting hatred against gays and lesbians. That is the precedent stating that these Biblical texts promote hatred against gays and lesbians. We then wonder what kind of protection we can have for the Bible now that such a precedent exists.

At the Standing Senate Committee on Legal and Constitutional Affairs I further asked Ms. Buckingham that perhaps the *Owens* case explains why so much of my e-mail and so many of my letters come from Saskatchewan. Ms. Buckingham replied:

I think so because it did have a high profile. People said afterwards that the Bible had been labelled "hate literature." I do not think that was ever the intention of the court. However, when you read the decision on its face, it looks like that was the intention. There has been more concern expressed in Saskatchewan because of that decision.

Honourable senators, I support Bill C-250 based on my Christian beliefs. While I understand there is some risk of having my freedom of expression and my freedom of religion curtailed, my Christian beliefs lead me to take that risk and to yield in favour of ensuring that no one else is injured, harmed or endures violence due to hatred or as a result of hate propaganda.

Bills of this nature may start by private members' bills, but where is the government in all of this? To put such a bill through Parliament with the potential of even further dissension and alienation is a fault of leadership. I would expect to see tolerance built into our diverse and immense society. People on both sides have a need to know that the government would use its influence, power and administration to ensure the proper application of this bill is a criminal law mechanism and not fodder for discontent, unease and fear. No assurance of consultation with Attorneys General and a monitoring of this law was made on behalf of the government in a public way that could start the process of education, as the true intent and scope of this bill contemplates.

It is not too late, and the government must act immediately to ensure that there is no needless exacerbation of divisions within our society. While a defence for religious beliefs is in the act, a reassurance that the government would introduce further measures should the courts not follow this intent strictly might be necessary. While the *Owens* case points out that cases can be misunderstood, it is not for the general public to understand fully the difference between the Human Rights Commissions and their role and their powers as opposed to the Criminal Code, the federal government's role and the provinces' roles in this. It is incumbent on the government to begin this process of conciliation immediately.

I would thank my party for the tolerance displayed to all points of view, and I would assure all of those who have followed the proceedings on Bill C-250 that there is not one unanimous voice within my party but there is the tolerance to listen to all of these views. I believe that this augurs well for the future of the party with which I have chosen to be associated.

Hon. David Tkachuk: I have a question of the honourable senator.

If the Constitution protects freedom of speech, how is it possible that the bill would further protect it when the Constitution is the last protector of freedom of speech? How can the bill make it stronger?

Senator Andreychuk: I tried to address this in my comments. Bill C-250, if I had a choice, would not have been in the form that it is, because I believe the other hate provisions in the Criminal Code cover groups and individuals. In other words, they are so broadly based that we need not go this way. Once we did, however, and we did it, I believe, for historical reasons, for compassionate reasons and for educational purposes some years ago, and you heard Senator Lynch-Staunton eloquently indicate that there were those who said we did not to go down this route, but we did, therefore we cannot now pick and choose between identifiable groups.

I would hope that when we are revising the Criminal Code provisions we will remove this section out because specifying identifiable groups leads to feeling in or out, feeling more discriminated against or less discriminated against when that is not the purpose. The purpose is to live in a society free of hate, and I think both sides of this argument agreed with that.

As to the honourable senator's comment about freedom of expression, I think you all heard me, as I remember one senator once said, entirely too often on the subject of human rights.

The Hon. the Speaker *pro tempore*: I regret to advise that the time has expired. Is the honourable senator asking for leave?

Is leave granted for Senator Andreychuk to continue?

Hon. Senators: Agreed.

Senator Andreychuk: The right to freedom of expression, freedom of religion and all the other rights are not unlimited rights.

• (2220)

Honourable senators have heard me say time and again that it is a question of proportionality, a question of balancing rights. My rights start where yours end, and vice versa. One right is balanced against another right because sometimes rights are competing rights. There is no such thing as total freedom of expression or total freedom of religion, or any of the other freedoms enumerated in the Charter.

Honourable senators also know that if there is a compelling reason, rights can be limited under section 1 of the Charter.

Honourable senators, in conclusion, concerning Bill C-250, there is some risk to freedom of expression and freedom of religion. However, there is also a danger that a group that has been attacked as an identifiable group will be left out. I do not know whether Bill C-250 strikes the right balance.

However, honourable senators, I would ask the government not to put us in this position again. Private bills can start as private impetus. However, when they become so polarizing, surely the role of a national government in a diverse society like Canada's is to try to build some harmony and tolerance. Because there is a risk to one side of the rights or the other, the balance is not always struck in legislation. The proof of the pudding is in the eating — once we start applying it.

Therefore, I hope that whatever government is in place it will look at this legislation. If it is symbolic, so be it. If it is used, I hope it is used sparingly and for the purpose for which it was intended. If it is used otherwise, it should be amended immediately.

Hon. Anne C. Cools: Honourable senators, will the Honourable Senator Andreychuk take a question?

Senator Andreychuk: Of course, honourable senators.

Senator Cools: I thank Senator Andreychuk for an extremely lucid and fair presentation. I will ask her three quick questions.

Senator Andreychuk is the first member of the Standing Senate Committee on Legal and Constitutional Affairs, which had the bill before it for a very few days over a very short period of time, to speak to this bill. First, we were told that 10 provincial attorneys general and two federal attorneys general, including the former Minister of Justice Martin Cauchon and the current one, Mr. Irwin Cotler, all support the bill, yet none appeared before the committee, which I find extremely odd. They support it but will not come and say so. Could the honourable senator comment on that?

The next question is this. The committee very dramatically cut short its hearings. It heard remarkably few witnesses. The ones they heard appeared on panels and each person had five minutes. I do not think that was particularly good.

By the way, honourable senators, it took me weeks to find out the number of witnesses who had applied to appear before the committee. Late last Thursday, I finally received a note from the clerk of the committee. She informed me in that note that some 2,164 applicants opposed to Bill C-250 asked to appear as witnesses. In favour, there were five. There were 190 with no position stated.

Does Senator Andreychuk have any comment or can she provide any insight to the chamber about the fact that over 2,000 witnesses applied to appear before the committee? That is a record number of witnesses asking to appear before a committee. Committees usually expand the number of hearings, to accommodate witnesses. Obviously, a committee cannot hear all who ask to appear, but the committee in this case could at least have heard a justifiable sample.

My third concern is this, honourable senators: This bill was rushed out of the committee with indecent haste. What really bothered me — and I raised it on the floor of the chamber just before we went into clause-by-clause consideration of the bill — was the fact that this bill was put into clause-by-clause consideration without the agreement of opposition members. The practice in this place is that committees usually move to clause-by-clause consideration of a bill with the agreement of the opposition. Could Senator Andreychuk give us some insight as to why such a huge controversial bill was truncated in its committee study? In point of fact, the treatment of witnesses was never really properly discussed in the committee. In respect of the steering committee, it seemed a little boxed out of the picture as well.

Could Senator Andreychuk given some insights into my questions?

Senator Andreychuk: Honourable senators, I thank the honourable senator for her questions, in particular with respect to her first question, which relates to the attorneys general.

The honourable senator correctly points to the conundrum throughout the process respecting this piece of proposed legislation. In some instances, Bill C-250 was treated like a government bill. However, when we tried to impose upon it the full process usually given a government bill, we were told, "It is a private member's bill." As a result, we really do not know what the attorneys general think. We have some indirect evidence as to what they think.

We studied this bill in a very fragmented way. The bill was around for a while; however, when we proceeded with it, it was proceeded with too expeditiously.

As to the number of witnesses, I know there were other witnesses who wished to appear before the committee. I wish that we could have heard from them. They were groups who have an unease about this bill. I wanted to be in a position to at least hear them and to reassure them that we honestly hear their concerns and are not dismissive of them.

I did not want this bill to become trapped in another dialogue — and I might as well put it frankly. I refer to the same-sex marriage issue, which seemed to cloud this bill. People seemed to want to argue that point rather than what is in the bill. That is partly symptomatic of the fact that, perhaps, the government was in the bill or not in the bill. There were perceptions, if not realities, of government involvement in the bill.

Finally, with regard to the honourable senator's last point about the bill being rushed, I think I have addressed that.

If it is the will of the majority to pass this bill immediately through the use of a closure motion, then I find that very disquieting for all the reasons Senator Lynch-Staunton pointed out. In the name of free speech, we thwart free speech. In the name of caring for these rights, we abrogate others. I think a fine balance should have been found. I am not sure that closure was the answer.

Honourable senators, because there was a will of the majority to pass this bill, there is even more of a responsibility for us to reassure those people who find this bill disquieting, as Ms. Epp Buckingham said, that the true intent of this bill be followed and not any other agenda.

Senator Cools: In respect of that, I should like to ask one question, because I am very puzzled by the peculiar treatment of this bill in committee.

Senator Andreychuk: I was not privy to the meetings of the steering committee. As I quite forcefully put on the record in the Standing Senate Committee on Legal and Constitutional Affairs, I was forced into the position of trying to manage Bill C-7 in the Transport Committee and Bill C-250 in the Legal and Constitutional Affairs Committee. I was not just representing our side of the chamber; I was simply a member of the committee. Thus, I cannot speak to all the nuances as to how the bill was rushed or why, or who did what.

I have to say on the record that I share some of the concerns of the honourable senator, but I cannot answer why they happened.

Senator Cools: As a lawyer, Senator Andreychuk can probably answer my next question. As she said, we were told that the provincial and federal attorneys general supported Bill C-250 but we could not get evidence from them saying that.

When we create criminal law, we have to be quite certain that we are adhering to the principles of criminal law and to what I would call the mind of Parliament or the common law mind. We must find the mind of the law to determine that the law is doing what was intended and is not capturing other offences or other wrongs that were not intended to be captured.

• (2230)

I was struck by the reluctance or the inability of the committee to hear, for example, what I would describe as some of the authorities on criminal law. I proposed that we hear from some of the great intellects on criminal law, such as Morris Manning. I even asked some of them if they would appear. These people were neither for nor against the bill. They were obviously to speak in respect of the crafting of good criminal law. We did not hear from any witnesses like that. We have not heard from any of the attorneys general. We have not heard from the Department of Justice. We did not hear from any of the authorities in the country on criminal law.

Quite frankly, the word of Mr. Svend Robinson, and Mr. Robinson alone, has propelled this bill. I have never seen anything quite like it in all my life. Being a lawyer, such as Senator Andreychuk, one always wants to be assured that one is in point of fact crafting law and not crafting sentiment.

Senator Andreychuk: I share the honourable senator's concerns and I have already stated them. Obviously, we do not want to curtail the right to present private members' legislation; we want to encourage it. However, I have been in this chamber for 11 years. I have seen proposed legislation that has started as a private member's bill, but when it takes on some greater significance and compelling need or urgency, the government steps in to debate, negotiate, discuss and take over the bill so that it is within the public domain and within government business.

Many of the issues the honourable senator raised are legitimate, and I would hope the government would reflect on how it proceeds on these very volatile, emotional issues. With the diversity of our society, we cannot come to a consensus on this type of thing. That is what was so compelling about the testimony of Ms. Buckingham. Biblical texts cannot be altered. Religion cannot be altered. That is why this bill was such a strain on me. I had to weigh it. However, my Christian beliefs taught me that I should risk myself so that someone else would not be injured. I do not expect other people of faith to take the same point of view. I think we all struggle with this bill. To Senator Cools and to others who testified, I will say that I, for one, will continue to monitor this bill. If there is any intrusion on the freedom of expression and freedom of religion that is not warranted within criminal law, I will be the first to introduce another private member's bill.

Senator Cools: Hopefully, the honourable senator's private member's bill will receive the same speedy passage that this bill has, with the full support of the government members, no doubt.

Hon. Tommy Banks: Honourable senators, I had the pleasure of attending the meeting at which the witness appeared to whom Senator Andreychuk referred.

This is not a question. I am making a speech.

Senator Prud'homme: There are other questions.

An Hon. Senator: It is a school night.

Senator Banks: It was a most interesting meeting. Senator Andreychuk is right, that we must be careful, in passing this bill, to ensure that it does not unduly or wrongly infringe on freedom of speech; that people who are concerned that it might be given assurances that it does not; and that great care is taken to ensure that it does not.

Many of those thousands of people from whom we have all heard have referred to the *Owens* decision, to which I paid much attention. I have a bias that I want to disclose before I talk about the *Owens* decision. I am swayed by some of the remarks Senator Lynch-Staunton made. I take comfort in the fact that there have

been five prosecutions, and not all of them successful, under the present provisions of the act.

I do not think that that necessarily indicates the ineffectiveness or uselessness of the bill. If I can be a bit corny: A man was clapping. The second man said, "Why are you clapping?" The first man said, "I am clapping to keep the elephants away." The second man said, "Don't be stupid. There aren't any elephants around here." The first man said, "Right. See, it works!"

In that respect, it might be that the bill has been very effective.

I do not see this bill as an infringement on the rights of free speech, but as a reasonable and necessary limitation of those rights. I do not see this bill as an abrogation of free speech or of religious thought, but as a reasonable and necessary constraint of those rights.

I have always been guided by the perfect sentence that John Stuart Mill wrote about rights, that if all mankind minus one were of one opinion, and that one man were of a contrary opinion, mankind would be no more right in silencing that one man than would he, had he the power, be right in silencing mankind. That is absolutely correct and is a perfect distillation of what I think we all believe.

With respect to the *Owens* case, I do not know if Mr. Owens would have been charged or convicted or if his appeal would have been denied had he been charged under the provisions of section 318 or 319 of the Criminal Code. He was not. This was a matter that had to do with Saskatchewan civil rights legislation.

The inference is that the thing of which he was accused had to do with Bible quotations. That is only partly the truth. What Mr. Owens was charged with was manufacturing, advertising, selling and distributing bumper stickers that contained on their left-hand side Biblical quotations, and on their right-hand side the universal sign for "not allowed": a red circle with a red slash through it, portraying a picture of two men or two women holding hands.

The question is: Is that an unreasonable thing to say that we cannot do? How would it be if we saw such a thing with a picture of a turbaned Sikh with a red line drawn through it, or a Black man, or a Chinese person, a menorah, a Torah, a Koran, a Bible or a cross?

Senator Stratton: Bring in a bill.

Senator Banks: I do not have to. We do not allow those things. I think that Mr. Owens was brought up short for doing something that Canadians do not want to have done, as demonstrated in the Saskatchewan human rights legislation.

However, first, I agree with his having been brought up short for having done that. Second, we must be aware of what that conviction was when it is referred to by persons who question whether Bill C-250 will constrain their right to express their rightly held religious beliefs. I do not think that is what happened in the *Owens* case. I think that some of the people who complained to us were told only half the story.

Hon. Terry Stratton: Honourable senators, I rise to speak briefly to the bill. I would thank our leader, Senator Lynch-Staunton, for what I thought was one of his finest speeches in the chamber.

I should like to refer you to my speech at second reading on Bill C-250 on October 2, 2003, where I questioned the need for this bill.

I refer you specifically in that speech to section 718.2 of the bill.

A court that impose a sentence shall also take into consideration the following principles:

(a) a sentence should be increased or reduced to account for any relevant aggregating or mitigating circumstances relating to the offence or the offender, and, without limiting the generality of the foregoing...

Perhaps Senator Banks would care to listen to this quotation from the Criminal Code.

• (2240)

Section 718.2(a) of the Criminal Code states:

(i) evidence that the offence was motivated by bias, prejudice or hate based on race, national or ethnic origin, language, colour...

Does that mean Senator Oliver, Senator Cools or anyone else of colour in this chamber should bring forward a bill similar to this one? Does it mean that that is what they should do, because they have experienced hate? They have experienced hate — the same kind of hate that a homosexual experiences — over history, throughout time, the same hate that homosexuals experience. Why would not Senator Oliver introduce a similar bill for the same reasons? Where would it stop? Where would it stop? That is my question. I quote from the Criminal Code that explicitly protects before colour. The section continues:

...religion, sex, age, mental or physical disability...

Senator Angus talked about physical disability in respect of his daughter. Should he not bring a bill forward for the same reason, because the hatred was expressed there as well, to that child? Why would he not introduce a bill? The section continues:

...sexual orientation...

We are dealing with that now in Bill C-250.

Honourable senators, where do we stop? Now that we have opened the door, where do we stop? Where do we stop now? It behoves us in this chamber, if we are to be balanced, to look at this list, and ask where hatred is prevailing. We cannot simply stop now, with this bill, because we would be discriminatory to these other groups, as much as we are discriminatory now. That is

wrong and reprehensible, which is why I was against Bill C-250 in the beginning.

Then I went to committee and listened to what the witnesses had to say. I became concerned that this bill, while not needed in a legal sense, perhaps, as Senator Lynch-Staunton said, was needed in a symbolic sense. I then read section 718 and thought that symbolic also applies to these other groups just as much and as importantly as the bill with which we are currently dealing. I was truly quite prepared, after listening to the arguments, to abstain, because I felt that would be the best position to take.

However, we went beyond that and decided on a closure motion and a guillotine motion. Senator Lowell Murray started to say to me, indirectly, that I, as the whip, was one of two people in this chamber who had the power to defer bills. We were doing it for what I thought was a legitimate reason, which I stated earlier.

However, we could not get a debate on his motion because of the guillotine. We then asked why Senator Murray was doing this. Then, we heard about what transpired recently with Joe Clark, and it became clear: They failed to bring the two parties together. They failed in their attempt. We begin then to think that perhaps there is a personal, rather than a legitimate, reason for this bill. That is my question, which I believe to be legitimate, whereas before I was quite prepared to abstain. The way in which this bill was handled causes me to no longer support this bill.

Hon. Joan Fraser: Honourable senators, I know the hour is late so I will be brief. I have been moved to speak to Bill C-250 by Senator Andreychuk's thoughtful and moving remarks. We have a rather greater and in some ways different responsibility in connection with this legislation than with some other bills that come before us.

Honourable senators are aware that I support this bill and will be content to vote in favour. However, it was apparent to me early on in the debate that this bill was having a divisive effect that was unhealthy for Canada. Hence, I decided early on that I would answer all the mail I received — many thousands — but I have lost count. They were mostly form letters, and I drew up a form letter in response. In that form letter, I tried to set out why I support this bill and why I believe that it contains, among other things, protections for the honest expression of religious belief.

My poor staff has spent hours and hours sending out letters to those who wrote and e-mails to those who sent e-mails. An astonishing number of people have written back — hundreds, and I have read all their responses. Many begin by thanking me for responding to their form letters and ask me to think about their opinions on the bill. A few of them, understandably, continue to tell me that I may torment in hell and an astonishing number said that they were glad to read the letter and understand that a reasoned and decent position can be adopted in favour of this bill, even if they still do not support it. Many said that they feel better about the process and about the intention of the bill.

Honourable senators, I suggest that if this bill passes we will have a duty to convey, to all people of Canada who are expressing concern, the depth and sincerity of the debate in this chamber and the certainty that this chamber was absolutely concerned with the preservation of freedom of religion and in no way set out to diminish that freedom. This chamber was simply concerned with the parallel need to protect a group that the majority of senators believed deserved such protection. However, it is important that the people of Canada not be left to hold their Parliament in contempt or mistrust. We have a duty to explain that those emotions are inaccurate responses to this debate on Bill C-250. They may continue to disagree with us but, please, help them to understand because it is as important as passing this bill.

Senator Lynch-Staunton Honourable senators, I have a question for Senator Fraser. It will be difficult for me to explain why this chamber of sober second thought cut short the debate. Perhaps the honourable senator could help me to explain that to Canadians?

Senator Fraser: We have had a long, long debate on this issue, and it is legitimate for the Senate to collectively decide that it wishes to proceed, but that was not my point. Feel free, if any senator wishes to talk about parliamentary tactics and the devious folks on the other side; but that is different. I am talking about the fundamental intention and goal — what we are trying to achieve, whether we do it tomorrow or another day. I do not think the two are incompatible.

• (2250)

Hon. Gerry St. Germain: Honourable senators, I wish to speak very briefly.

Senator Lynch-Staunton: May I interrupt? Senator St. Germain is the proposer of the amendment, and I assume that if he speaks now, that cuts off any other speakers. I want to be sure that no other speakers want to speak to the amendment. Am I correct in that interpretation? Did he not move the amendment? Therefore, there is no right to reply on the amendment. He cannot speak again.

The Hon. the Speaker pro tempore: Is leave granted for Senator St. Germain to speak?

Hon. Senators: Agreed.

Senator St. Germain: Honourable senators, this has been a very trying time for me because this has been an issue where, as Senator Fraser pointed out, we have been inundated with thousands of e-mails. My concern has been freedom of expression, and my concern is about passing a bill merely for symbolism. Freedom of expression is something that I hold as a Canadian and as someone who has served as a police officer and in the military. This is what I believe we have always fought for, namely, freedom. Many countries have peace but very few enjoy real freedom. I think that freedom of expression is at risk, a point which other senators have raised.

Honourable senators, regardless of the outcome of this vote, we have to continue working together as senators for the betterment of the country and each and every Canadian. I think that the inevitable will happen in the case of this bill, but I want all honourable senators to know, regardless of what side they stand on, that I think no less of them. We all have to stand up for what we believe in. If we fail to respect each other for our beliefs, then we head down the slippery slope that has been mentioned.

My biggest concern is that we sometimes get into areas of legislation and the tyranny of the minority is given an opportunity to rear its head, because we govern for the majority.

In closing, we have stated our cases. Some of us still feel we should have had a better opportunity to hear more witnesses. I think that the government took ownership of the bill by virtue of allowing it to proceed in the way it has. It had a responsibility on an issue that goes to the very soul of the nation. The people who immigrated to this country from around the world came here because they knew they could exercise their freedom of expression and freedom of religion. If these freedoms are put in jeopardy in any, way shape or form, and some of us believe they might be, that would be a giant step backward for this country.

In the spirit of wanting to continue to work together, I hope this never becomes personal and that we continue to work for the betterment of the nation.

The Hon. the Speaker pro tempore: Are senators ready for the question?

Some Hon. Senators: Question!

The Hon. the Speaker pro tempore: It was moved by the Honourable Senator St. Germain, seconded by the Honourable Senator Stratton:

That the bill be not now read a third time but that it be amended, on page 1, in clause 1, by replacing lines 8 and 9 with the following:

“by colour, race, religion, ethnic origin or sex.”

Is it your pleasure, honourable senators, to adopt the motion in amendment?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker pro tempore: Those in favour of the motion in amendment will please say “yea.”

Some Hon. Senators: Yea.

The Hon. the Speaker pro tempore: Those opposed to the motion in amendment will please say “nay.”

Some Hon. Senators: Nay.

The Hon. the Speaker *pro tempore*: In my opinion, the “nays” have it.

Senator Stratton: With respect to the motion in amendment and the main motion, I believe we have agreement in this chamber for a vote at three o'clock tomorrow.

Hon. Bill Rompkey (Deputy Leader of the Government): That is the agreement.

Hon. Marcel Prud'homme: Honourable senators, am I to understand that the vote on the motion in amendment will take place tomorrow following which we would be back to the main motion? One of the difficulties when the vote on an amendment is deferred is that we do not know if the amendment will pass. If the amendment does not pass, then we go back to main motion. If the amendment does pass, the kind of speech that one would make would be different. Where are we at this time? Can we speak on the main motion or can we still speak on the amendment?

Senator Lynch-Staunton: You cannot speak. It is finished.

Senator Andreychuk: Senator Joyal's motion finished it.

The Hon. the Speaker *pro tempore*: The vote has been deferred to 3 p.m., and we agreed on the following motion earlier today:

That it be an Order of the Senate that on the first sitting day following the adoption of this motion, at 3:00 p.m., the Speaker shall interrupt any proceedings then underway; and

all questions necessary to dispose of third reading of Bill C-250, An Act to amend the Criminal Code (hate propaganda) shall be put forthwith without further adjournment, debate or amendment; and that any vote to dispose of Bill C-250 shall not be deferred; and

That, if a standing vote is requested, the bells to call in the Senators be sounded for 15 minutes, after which the Senate shall proceed to take each vote successively as required without the further ringing of the bells.

Accordingly, the vote is deferred until 3 p.m. tomorrow afternoon.

BUSINESS OF THE SENATE

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I propose that all other items on the Order Paper stand in their place to be called at the next sitting of the Senate.

The Hon. the Speaker *pro tempore*: Is it agreed, honourable senators?

Hon. Senators: Agreed.

The Senate adjourned until Wednesday, April 28, 2004, at 1:30 p.m.

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(HANSARD)

Wednesday, April 28, 2004

THE HONOURABLE LUCIE PÉPIN
SPEAKER *PRO TEMPORE*



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THE SENATE

Wednesday, April 28, 2004

The Senate met at 1:30 p.m., the Hon. the Speaker *pro tempore* in the Chair.

Prayers.

SENATORS' STATEMENTS

CURLING

WORLD CHAMPIONSHIPS IN GAVLE, SWEDEN— CONGRATULATIONS TO WOMEN'S GOLD MEDAL AND MEN'S BRONZE MEDAL WINNERS

Hon. B. Alasdair Graham: Honourable senators, we are at the time of year when Canadians are either focused, distracted, elated or frustrated as winter sports head to their inevitable and hopefully exciting playoff showdowns.

Against this background, one team stands out above all the rest. Tonight, the Mayflower Curling Club in Halifax will honour Colleen Jones and her world champion women's curling team made up of Kim Kelly, Mary-Anne Arsenault and Nancy Delahunt. These women are among Canada's greatest athletes and finest ambassadors.

Anyone who had the opportunity to watch the final from Gavle, Sweden last weekend could not help but be greatly moved as the Red Maple Leaf flag was raised, and the skip and her mates proudly sang our national anthem with tears of justifiable emotion streaming down the cheeks of these proud Canadians.

Colleen's "Hurry, Hurry, Hurry, Hard!" has resonated around the world.

On a personal note, on the weekends when I watch my grandchildren play hockey in the rinks of Halifax, I see and perhaps more often hear Colleen shake the rafters with her cries of, "Holy moly, what a goalie!" This, of course, is when she is cheering for her 10-year-old son Luke, who happens to be the star goaltender for the Atom Hawks, a team on which my grandson Andrew Nolan Graham also happens to be a valued centre and right winger. Colleen is not only a great broadcaster and world-renowned curler, she is also a model mom.

One could not mention curling without recognizing as well the outstanding achievement of another Mayflower team of skip Mark Dacey, Bruce Lohnes, Bob Harris and Andrew Gibson who captured the men's bronze medal at the same world tournament in Sweden.

I know all honourable senators would want to join with me in congratulating and extending best wishes to the winning team and everyone associated with curling at the Mayflower in Halifax.

SOUTH AFRICA

2004 NATIONAL ELECTION

Hon. Donald H. Oliver: Honourable senators, 10 years ago today I was in South Africa. I was honoured and privileged to participate in the first democratic elections ever in the Republic of South Africa. I had spent some two weeks in South Africa as a United Nations observer, and I watched with awe as tens of thousands of black South Africans lined up, many of them for days, to cast their first ever vote for the man who was to them the embodiment of everything right and just, Mr. Nelson Mandela.

The most recent South African election ended officially on Saturday when the Independent Electoral Commission, the IEC, declared that the polls were free and fair, and the African National Congress, the Mandela party, won 279 seats in the National Parliament. It was an open and free election, virtually without a fault.

Honourable senators, the South Africans are an incredible people. As one writer said, South Africans, the extraordinary people that they are, have made great strides in political maturity over the last 10 years. This was manifested in the counting and the exercise of the franchise. The third democratic national elections of the republic have come and gone without a major glitch. One commentator said:

Although we are a developing nation, we have come of age as far as election management is concerned. The advancement and technology in our country coupled with the level of skill in the organization, has improved our efficiency considerably. Whereas in 1999 we announced the results on the sixth day after the elections, this time around we captured, audited and are announcing results three days after the elections.

Honourable senators should know that in the run-up to the elections of this month in South Africa, observers saw robust competition among political parties during the campaigning, and the campaigns were issue driven. Most of the parties were no longer relying on the roles they had played during the anti-apartheid struggle years. In other words, they were not liberation elections as was the case when I was there in 1994.

Honourable senators, this is a commendable and remarkable achievement, and it is the day that, as democrats, we should all celebrate with pride. The democratic experiment of an open and free election with a secret ballot works, and it works well in South Africa.

THE LATE GEORGE FERGUSON

Hon. Catherine S. Callbeck: Honourable senators, I rise to pay tribute to a respected and fondly remembered Islander who passed away last week, George Ferguson of Murray River. A war veteran and small businessman, George represented the District of Fifth Kings in the provincial legislature for four terms, from

1960 to 1974. He served with distinction as Minister of Highways during his final two terms in office, from 1966 until his retirement from politics in 1974. George left a legacy of respect and affection on both sides of the legislative assembly.

He was renowned for his kindness and understanding and for doing his best to serve and support every voter in his constituency, regardless of political affiliation. Newly elected MLAs could always turn to George for advice and support. He was a mentor long before the term became fashionable. In short, during his long and distinguished career in politics, he exemplified everything that is finest about those who serve in an elected office.

I extend my sympathy to his widow, Dorothy, to his children, Dennis, Fergie and Paul, and to the other members of his family.

• (1340)

ROUTINE PROCEEDINGS

CHILD-DIRECTED ADVERTISING

NOTICE OF INQUIRY

Hon. Mira Spivak: Honourable senators, I give notice that, on Tuesday, May 4, 2004, I shall call the attention of the Senate to the need for government intervention to curb child-directed advertising that encourages poor nutrition and physical inactivity.

OFFICIAL LANGUAGES

BILINGUAL STATUS OF CITY OF OTTAWA— PRESENTATION OF PETITION

Hon. Francis William Mahovlich: Honourable senators, pursuant to rule 4(h) of the *Rules of the Senate*, I have the honour to table petitions signed by 25 people asking that Ottawa, the capital of Canada, be declared a bilingual city and the reflection of the country's linguistic duality.

The petitioners pray and request that Parliament consider the following:

That the Canadian Constitution provides that French and English are the two official languages of our country and have equality of status and equal rights and privileges as to their use in all institutions of the government of Canada;

That section 16 of the Constitution Act, 1867 designates the city of Ottawa as the seat of the government of Canada;

That citizens have the right in the national capital to have access to the services provided by all institutions of the government of Canada in the official language of their choice, namely English or French;

That Ottawa, the capital of Canada, has a duty to reflect the linguistic duality at the heart of our collective identity and characteristic of the very nature of our country.

Therefore, your petitioners ask Parliament to confirm in the Constitution of Canada that Ottawa, the capital of Canada, is officially bilingual, pursuant to section 16 of the Constitution Act, from 1867 to 1982.

QUESTION PERIOD

HEALTH

FIRST MINISTERS' ACCORD ON HEALTH CARE RENEWAL— ENDORSEMENT BY GOVERNMENT

Hon. Marjory LeBreton: Honourable senators, the Minister of Health, Pierre Pettigrew, gave a speech on health care reform last week that focused on the subject of medical waiting lists.

One of the recommendations in his speech was that governments should publish data on their performance in meeting targets for appropriate waiting times. However, the minister's speech did not include any endorsement of the 2003 First Ministers' Accord on Health Care Renewal, which directed the provinces to develop performance indicators, including those to measure timely access to services, health care providers and diagnostic tests.

Would the Leader of the Government in the Senate tell us why his government has yet to endorse last year's health accord?

Hon. Jack Austin (Leader of the Government): Honourable senators, Senator LeBreton is asking me a series of questions with respect to the federal-provincial negotiations on health care and the terms on which the federal government is prepared to provide additional funding. These terms deal with accountability and transparency.

As the honourable senator knows, the Prime Minister and the premiers have planned a meeting, I believe the date is tentatively set for July 28 to 30, to deal with health care and other issues.

As for the details of that process, I have consistently said that these negotiations are going on at several levels. That is the only reply I can provide to the honourable senator at the moment.

HOSPITAL WAITING PERIODS COMMENTS BY MINISTER

Hon. Marjory LeBreton: Honourable senators, in his speech last week, the minister said that some of the fears Canadians have in regard to waiting times have:

... grown out of misinformation and exaggerated anecdotes that have become urban legends about the health system.

While the minister went on to say that some of these fears are legitimate, it is troublesome that he would use the words, "minor" or "trivial," to characterize the genuine concern that Canadians have over long waiting times.

Would the Leader of the Government in the Senate tell us what misinformation regarding lengthy waiting times the minister was referring to in his speech, and, in his capacity as a cabinet colleague, would he ask Mr. Pettigrew to refrain from doing so in the future?

Hon. Jack Austin (Leader of the Government): Honourable senators, it is abundantly obvious that the subject of waiting times is a critical issue for Canadians with respect to health care.

Our own committee on Social Affairs, Science and Technology, chaired by Senator Kirby, of which Senator LeBreton is the deputy chair, pointed to this issue as the one that needed to be dealt with as the highest priority. The government has accepted that recommendation and is working to establish criteria for waiting times and the consequences for provinces for not meeting those criteria.

The discussions between the federal government and the provinces must be based on facts, as Senator LeBreton suggests, rather than on advocacy by various interest groups in the health industry. Work is going on, as the honourable senator well knows, to establish the waiting times in a variety of medical treatment programs.

Waiting times vary from province to province. The issue is greater relative to certain types of medical treatment — treatment for cancer in one province and hip replacement surgery in another.

The administration of health care is the responsibility of the provinces. However, the federal government, in using the power of the chequebook, has a responsibility to Canadians — I know the honourable senator agrees with this — to get value for money and to see measurable results from the contribution of new funds.

HUMAN RESOURCES DEVELOPMENT

COST OF POST SECONDARY EDUCATION— STUDENT DEBT

Hon. Ethel Cochrane: Honourable senators, a report released from Statistics Canada on Monday shed more light on the serious debt load problems facing our post-secondary graduates. The report found that the average student debt load has gone up 76 per cent since 1990.

The average debt load for a bachelor's degree graduate is \$20,000, while a graduate with a college degree must repay \$13,000. Statistics Canada also reports that almost one-half of all graduates in the year 2000 owed money.

Ian Boyko, the Chairman of the Canadian Federation of Students, said that these statistics show that we are putting an entire generation in debt, or at least the poor half of it.

My question is for the Leader of the Government in the Senate. In conjunction with the provinces, what will this government do to address this serious problem of student debt?

Hon. Jack Austin (Leader of the Government): Honourable senators, this question was asked in Question Period within the last three weeks by the honourable senator, and I provided an answer at that time.

• (1350)

The government recognized the problem of increasing costs of post-secondary education in the budget speech by the Minister of Finance on March 23, 2004. He announced various measures, including the raising of debt limits under the Canada Student Loans Program, the provision of a bond program and a number of other measures designed to address the question of students and post-secondary debt.

I am most interested in knowing whether the honourable senator has a suggestion to make as to what steps the government could take within the fiscal framework that would be of greater assistance.

Senator Cochrane: Honourable senators, I thank the honourable senator for his suggestion. Since the leader has asked for my suggestions, I will probably put those in writing.

I would draw attention to a news release issued by Statistics Canada to demonstrate the importance I attach to this matter. I continue to ask these questions in the hope that some action will be taken.

The recent federal budget did nothing to address the problem of student debt by raising loan limits. Instead, it should be tackling rising tuition fees or providing even more grants. This government has helped to make the situation worse, in my view. The federal government must work with the provinces to lower tuition costs and provide grants to students, especially those from low-income families.

Will the federal government commit more funds to specifically address those two areas: tuition costs and student grants?

Senator Austin: Honourable senators, I look forward to receiving the honourable senator's written proposals. She well knows that the question is quite complex as it relates to additional direct grants to students. There is a triangle of responsibility, which is the student for his or her education, the province to provide that education at a quality level and affordable cost, and the federal government to direct funds to assist in education. That triangle of responsibility must be measured over and over again in a balanced way.

The federal government has put an enormous amount of funds into the education file. Billions of dollars have been transferred to universities for research and postgraduate work, to develop centres of excellence and to fund chairs. This has allowed the provinces and the universities to change budgets in order that they can make the funds that they were investing in these areas available at the undergraduate level to some extent.

However, the provinces must take this decision because universities are provincially owned. That is the Canadian system in the large. We bring enormous pressures on the provinces to meet their responsibilities.

I am open to receiving specific proposals and I would be most interested to know whether those proposals and the additional spending advocated are a policy of the party of the honourable senator or a personal view.

CITIZENSHIP AND IMMIGRATION

NEW IMMIGRATION CONSULTANT REGULATIONS

Hon. Donald H. Oliver: Honourable senators, my question is to the Leader of the Government in the Senate, and it deals with the new immigration consultant regulations.

Honourable senators will recall that the federal government brought forward regulations that deal with immigration consultants. When these new regulations were introduced last fall, I asked the former Leader of the Government in the Senate a question concerning how potential immigrants in foreign countries will learn about these new rules. I think it is important to restate information in that regard now that the rules are in fact in place. If potential immigrants are not aware of the changes, they may continue to be cheated out of money and receive bad advice from fraudulent immigration consultants.

My question is this: Have our embassies and our high commissions around the world been informed as to how to let potential immigrants know about these new regulations?

Hon. Jack Austin (Leader of the Government): Honourable senators, I do not have personal knowledge to answer the question, but I would be astonished if our immigration officers abroad were not up to speed with the new regulations and if they were not authorized to provide that new information to potential immigrants.

It is clear, honourable senators, that we have not met our immigration targets. We seek to invite people who would like to come to Canada to do so within the criteria for immigration that have been set.

As far as I know, we are very active in responding to applications for immigration. I hope that these people are given adequate information.

Senator Oliver: Honourable senators, as a supplementary question, under the new regulations, a special fund will be created to compensate people who have been victimized by fraudulent consultants. Unfortunately, there are already many instances of immigrants who have lost money, sometimes substantial amounts of money, or had their cases mishandled through the misconduct of consultants they trusted and thought would act on their behalf.

Could the Leader of the Government in the Senate tell us if people who were so victimized before the new regulations were put into place will have access to compensation through this fund, and if not, what recourse will they have? In other words, will the compensation provision be retroactive?

Senator Austin: I thank the honourable senator for his question. I will make inquiries in an endeavour to provide an answer shortly.

PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

CYBER ATTACKS

Hon. J. Michael Forrestall: Honourable senators, my question is for the Leader of the Government in the Senate.

In a recently revealed report written last September or October, CSIS warned that last summer's blackout could be a harbinger of what might happen were terrorists to conduct, in any serious way, cyber attacks on Canada. Such attacks would, we have learned, cause cascading blackouts in communications, transportation, water systems, banking operations and who knows what else.

The new national security policy announced yesterday is filled with platitudes on strengthening the government's ability to defend against and prevent cyber attacks, but few, if any, concrete measures are mentioned.

What has the government done since the CSIS report was issued late last summer to address the concerns of CSIS regarding cyber attacks? How much better are we prepared to deal with such an attack, as it has been three or four years since the notion was new? In other words, what specific steps, if any, has the government taken so far, and what does it intend to do to guard against recurrences that would flow from cyber attacks?

Hon. Jack Austin (Leader of the Government): Honourable senators, we have, as of yesterday, announced a national security policy that is many-faceted. I cannot expect the honourable senator to endorse the policy because of partisan issues. However, yesterday in Question Period I suggested that Canada's national security would be enhanced if there could be a bipartisan approach to national security. That idea, apparently, is falling on very flinty ground.

• (1400)

Senator Forrestall: That is almost indecent!

Senator Austin: With respect to a cyber policy, honourable senators will know that a joint study was undertaken between Canada and the United States regarding the cause of the blackout last summer. That blackout was determined to have originated in Ohio with FirstEnergy Corp. and its negligence with respect to the transmission-line management.

The important part of the question asks what we are doing to defend ourselves against that type of breakdown or, indeed, if I understand the question, against terrorist attacks on the system. In terms of transmission-line management and the cascade effect, new models have been set up to defend against the cascade part of the damage, so that the issue can be isolated to small regions rather than cascade the entire network. I understand that that work is in place.

With respect to terrorist threats to our system of generating and maintaining electric loads, again, a system is in place that will isolate large regions. However, smaller regions may be vulnerable, depending on what is hit. Regardless of how the cyber part of the system is managed, if there is no physical plant, the cyber system cannot save you.

NATIONAL SECURITY POLICY—
CYBER-SECURITY TASK FORCE

Hon. J. Michael Forrestall: I appreciate that answer very much. The question is not asked out of partisanship. As a result of Minister McLellan's broad sweeping announcement yesterday, we can now ask these questions without being partisan at all. Minister McLellan tabled in Parliament yesterday a comprehensive statement on national security. In it, she announced the establishment of a high-level national cyber-security task force.

Can the Leader of the Government in the Senate give us any indication of when that task force will be in place, who will head it up and who will be its members?

Honourable senators, the threat is not somewhere off in the wilderness; the threat is real and it is possible. We have seen the value of a threat as an instrument of terrorism. We saw it yesterday on a flight from Halifax to Vancouver. It terrifies people, and the only comfort has to come from the government. Hence, there is nothing partisan about it at all, honourable senators.

Hon. Jack Austin (Leader of the Government): Honourable senators, I find myself in the strange place of not being able to disagree with the honourable senator's supplementary question in any way. The threat is always present. We must be extremely watchful, and we must have systems that can respond.

The national security policy is a major step forward. The government, as you are aware, in various parts of the strategy, is committing a total of \$690 million, in addition to the over \$8 billion that has been put into Canada's security system since September 11, 2001. However, it is not the money alone; it is what the money can do to bring us to the highest stage of alert.

Senator Forrestall knows as well as anyone here that information is what it is all about. It is being able to anticipate, and anticipating requires information. It requires the collection of information. Much of the focus of the national security policy, as Senator Forrestall knows, is on getting the kind of information that will allow us to make a rapid response, one of anticipation, it is hoped, but, if not, a very rapid response if an event takes place.

I am sure that this chamber will want to study the national security policy. It is, in effect, what the British call a white paper. It is the government's policy, but it is the outline of a policy. There is so much to be done to fill in the specific actions that the government must take.

CANADA-UNITED STATES RELATIONS

OPENING OF BORDER TO BEEF EXPORTS—
VISIT BY PRIME MINISTER

Hon. Gerry St. Germain: Honourable senators, my question to the Leader of the Government in the Senate relates to the Prime

Minister's visit with the President of the United States on Friday of this week in Washington. Is the Leader of the Government in the Senate aware of whether the Prime Minister and the President will be discussing a detailed strategy or proposal to eliminate the U.S. trade ban on live Canadian cattle, or is this merely a photo op for the Prime Minister before the call of this next election? The timing of this upcoming visit is strange. Possibly the minister could explain to the Senate and to Canadians why the meeting was called at this time.

Hon. Jack Austin (Leader of the Government): Honourable senators, I know that Senator St. Germain agrees with me that Canada-U.S. relations are of paramount importance to Canada. The development of an understanding and, hopefully, of a concurrence on issues that irritate the relationship is something that we all want.

It is part of longstanding practice for the President and the Prime Minister, in whatever year or decade, to hold meetings on bilateral relations. There needs to be no explanation, in my view, as to why the President of the United States would meet with the Canadian Prime Minister.

The agenda includes a number of issues of importance to Canada; for example, softwood lumber, BSE, security issues and issues relating to the upcoming G8 meeting, which will take place on June 8 to 10 in Sea Island, Georgia. The President of the United States is the host at that particular G8 meeting. There are other issues on the agenda, but I do not think that anyone in this chamber would challenge either the importance or the necessity of a bilateral meeting.

Senator St. Germain: Honourable senators, I do not think anyone would question the need for a meeting and the need to deal with the issues that have been so adeptly pointed out by the Leader of the Government in the Senate. However, I would have sooner seen an invitation to the ranch at Crawford, Texas, than to Washington.

I hope the next invitation from the President to a Canadian Prime Minister will be to Stephen Harper, my leader, as opposed to the Prime Minister of the day.

Senator Robichaud: You can start praying now!

Senator Austin: Why would he want to meet the Leader of the Opposition?

Senator St. Germain: I do not intend to start praying, as this is not a praying matter. This is a matter of Canadians making the right choice, and I know they will.

Honourable senators, my supplementary question relates to the beef issue, again. As many of us recall, earlier this month the U.S. Department of Agriculture announced that premium and on-the-bone cuts from Canadian cattle under 30 months of age would be allowed across the border. Unfortunately, this move was stalled by Monday's court decision until a May 11 hearing, at which time presentations will be made for and against the opening of the border to these beef cuts. What measures is the Canadian government taking to

ensure that the case for Canadian beef is being effectively communicated in this case, and what precise efforts is the Canadian government engaging in to influence the outcome of this particular matter? This entails beef from cattle under 30 months.

Senator Austin: Honourable senators, specifically, the U.S. Department of Agriculture is committed to defending its decision in the judicial process. Of course, it has possession of all appropriate facts. I am not sure whether Senator St. Germain is arguing that Canada should ask to appear as an intervener in that process, but if that is his suggestion, I will certainly send it along to the Department of International Trade for their consideration.

• (1410)

Regarding the general subject of my honourable friend's question, the Prime Minister, the Right Honourable Paul Martin, called all the premiers and territorial leaders to ask for their priorities. My understanding is that a conference call was held in which they were all present and all engaged in a background discussion to prepare the Prime Minister for his meeting with President Bush, which indicates that the Prime Minister's agenda is not only federal in nature but also national.

Senator St. Germain: Honourable senators, we should be doing everything we can. The relationship between Canada and the United States, whoever is the Prime Minister, must improve for the sake of all Canadians.

INTERNATIONAL TRADE

NORTH AMERICAN AGRICULTURE STRATEGY

Hon. Gerry St. Germain: Honourable senators, the government seems to be chasing issue after issue, especially in the area of agriculture. The Honourable Senator Andreychuk showed me a document stating that the live export of hogs to the United States is in question as well.

Is any thought being given to a North American agriculture strategy to coordinate all of these issues? Our cattle go back and forth across the border, and now we have a challenge in the poultry industry. There is a litany of issues in the agriculture sector alone, such as the cross-border shipment of grain. We should work on a North American strategy similar to what Prime Minister Brian Mulroney established under the Canada-U.S. Free Trade Agreement and then under NAFTA. We should focus in on an agriculture policy so that we can give our agricultural industry the security and stability they need to serve the well-being of all Canadians.

Hon. Jack Austin (Leader of the Government): Honourable senators, Senator St. Germain makes an interesting suggestion. Of course, large parts of our agricultural industry fervently wish total free trade with the United States so that we have an integrated economy in, for example, beef, hogs and grain.

The problem we always face in developing a bilateral integration strategy, as Senator St. Germain knows, is that Canada has a market management system with respect to key

products — eggs, dairy products, chickens, turkeys — which is not acceptable to the United States. Unwinding these programs is not acceptable to substantial parts of the Canadian agricultural community. It is difficult to move to total integration.

Disputes over softwood lumber and hogs, as well as the Canadian Wheat Board issue, indicate that there are producers in the United States who would be very resistant to any kind of open market exchange with Canada. The consideration is one that must be balanced to see whether we could make progress.

TREASURY BOARD

APPOINTMENTS TO CROWN CORPORATIONS— PROCESS OF SELECTION

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, my question to the Leader of the Government is based on a statement made by the President of the Treasury Board in March. He said that henceforth, appointments to Crown corporations, including senior officers and directors, would no longer be unilaterally made by the Prime Minister but would be subjected to a procedure based on merit, which would include asking Crown corporations to establish a nominating committee, the possibility of recruitment through search firms and eventually a parliamentary review of the candidates that the minister or the Prime Minister recommends.

The President of the Treasury Board spoke on March 15, and the Prime Minister himself confirmed that procedure on March 26 when he spoke in Winnipeg. He said, "Last week we completely overhauled the way the government appoints those who lead its Crown corporations," which leads me to believe that the new process is now in place. Could the Leader of the Government in the Senate confirm that?

Hon. Jack Austin (Leader of the Government): Honourable senators, I would need to find out at what stage the policy implementation now sits, but I would be happy to give further information to the Leader of the Opposition shortly.

Senator Lynch-Staunton: Honourable senators, it is either government policy that is implemented or it is not government policy. The importance of this matter is realized by the fact that this year, well over 100 appointments to Crown corporations come due, including key ones that have already opened up, such as the Chairman of VIA Rail, the CEO of VIA Rail and the CEO of the Business Development Bank. In addition, it is possible that the position of CEO of Canada Post may open up. The first two Crown corporations are being managed by interim appointees, which is not right. Permanent people are needed in those key positions. What is the government doing to fill those positions based on the criteria announced by the President of the Treasury Board and confirmed by the Prime Minister, since the way he worded it is as if those criteria were already in place?

Senator Austin: Honourable senators, I know that Senator Lynch-Staunton wants specific information and not just a general answer that does not provide much more information than the statement he has read. I will do my utmost to bring a more specific answer to him shortly.

BUSINESS DEVELOPMENT BANK

• (1420)

CONFIDENCE IN PRESIDENT OF CHIEF EXECUTIVE
OFFICER AND BOARD OF DIRECTORS

Hon. John Lynch-Staunton (Leader of the Opposition): In searching for that answer, will the leader also find out if the directors of the Business Development Bank who supported Mr. Vennat, who was then dismissed by the government, will be reappointed when their terms come due?

Hon. Jack Austin (Leader of the Government): Obviously, honourable senators, that is something for consideration at a future time, and at a future time there will be an answer.

Senator Lynch-Staunton: No, right now.

THE SENATE

TRIBUTE TO DEPARTING PAGES

The Hon. the Speaker *pro tempore*: Honourable senators, I have the honour of presenting three pages who will be ending their contracts with the Senate.

Alexandra Spiess, from Ottawa, has been a page for the past two years while pursuing her combined honours degree at Carleton University in humanities and English. After completing her degree next year, she hopes to take some time off to travel. She has very much enjoyed her experience in the Senate.

Hon. Senators: Hear, hear!

The Hon. the Speaker *pro tempore*: Ashley Delaurier, from Tecumseh, Ontario, will be leaving the Senate after two years of service. She will be completing her studies in physiotherapy at the University of Ottawa in order to pursue further studies in medicine. She truly enjoyed her experience at the Senate.

Hon. Senators: Hear, hear!

The Hon. the Speaker *pro tempore*: Michelle Jones, from Kamloops, British Columbia, is sad to be leaving the Senate after three years service. Now that she has graduated with an honours degree in political science, in September she will be pursuing a joint law degree and master's program at the University of Ottawa and the Norman Paterson School of International Affairs.

Hon. Senators: Hear, hear!

ORDERS OF THE DAY

PUBLIC SAFETY BILL 2002

THIRD READING—
ALLOTMENT OF TIME FOR DEBATE—
NOTICE OF MOTION

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I rise, pursuant to rule 39, to inform the chamber that I have had a discussion with my counterpart, the Acting Deputy Leader of the Opposition, about the disposition of Bill C-7.

It has not been possible to reach an agreement concerning the time to be allocated for the third reading stage of this bill. Therefore, pursuant to rule 39, I give notice that, at the next sitting of the Senate, I will move:

That, pursuant to rule 39, not more than a further six hours of debate be allocated for the consideration of the third reading stage of Bill C-7, An Act to amend certain Acts of Canada, and to enact measures for implementing the Biological and Toxin Weapons Convention, in order to enhance public safety;

That when debate comes to an end or when the time provided for the debate has expired, the Speaker shall interrupt, if required, any proceedings then before the Senate and put forthwith and successively each question necessary to dispose of the third reading stage of the said bill; and

That any recorded vote or votes on the said question shall be taken in accordance with rule 39(4).

Some Hon. Senators: Hear, hear!

Senator St. Germain: So much for the democratic deficit.

CUSTOMS TARIFF

BILL TO AMEND—THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator De Bané, P.C., seconded by the Honourable Senator Gill, for the third reading of Bill C-21, to amend the Customs Tariff.

Hon. Michael A. Meighen: Honourable senators, I welcome the opportunity to speak again and for the last time to Bill C-21.

When I last spoke to this bill, I focused primarily on its development implications. In so doing, I drew attention to the sorry state of the Liberal government's development policy, a policy that fails to allow measures such as those contained in Bill C-21 to flourish. Today, I should like to speak to the trade implications of this bill.

Bill C-21 will extend for another 10 years, until June 30, 2014, both the General Preferential Tariff and the Least Developed Country Tariff. Before talking about these two measures specifically, I think perhaps a little background on Canada's customs tariff regime would be helpful. There are several components to the regime: the Most Favoured Nations Tariff, known as the MFNT; the General Preferential Tariff, known as the GPT; and the Least Developed Country Tariff, known as the LDCT. Those tariffs are applicable to those trading partners with which we do not have formal trade agreements.

Ordinarily, the tariff rate is set at 35 per cent, but through Orders in Council, tariffs can be reduced for specific countries. That reduction will usually depend on our trade relationship with those countries. In the case of the GPT and the LDCT, it will depend on our foreign aid strategy, which is supposed to be designed to help stimulate the economies of many of those countries.

Honourable senators, only a very few countries are subject to the 35 per cent tariff: North Korea is one; Libya, Oman and Albania are the others — four, in total. However, the vast majority of the others are subject either to the GPT or to the LDCT. The GPT applies to some 180 countries around the world. The LDCT applies only to the world's poorest countries — countries such as Burundi, Chad, the Democratic Republic of Congo, Haiti, Laos and others — 48 countries in total.

Then there are those with which we have negotiated formal trade agreement. This is the fourth category of tariffs. Countries in this category include Mexico and the United States, which, with Canada, are signatories of the North American Free Trade Agreement. Other countries with which we have bilateral trade agreements include Chile, Costa Rica and Israel.

As you might expect, honourable senators, the GPT and the LDCT provide either very low or non-existent tariff rates for those countries that fall into those categories. The reason for Bill C-21, which I remind honourable senators seeks to extend these tariffs for another 10 years, is that if these tariffs are allowed to expire, then those nations benefiting from them would revert to most favoured nation status. They would then be subject to the higher MFN tariff rate.

[Translation]

Honourable senators, Canada is an exporting country. The livelihood of most Canadians is dependent on the trade relations that our country maintains with the rest of the world. Last year, Canada exported \$ 457.8 billion in goods and services and imported \$409.1 billion.

Close to 40 per cent of the Canadian economy is based on trade. This means that trade and the tariffs that regulate this activity are serious business. This is why a legislative measure

such as Bill C-21, which several of us may believe to be rather straightforward on the face of it, was the object of an extended debate in the other place.

No one is opposed to the need to extend tariffs, and certainly not the Conservative Party of Canada. This is why we support the bill. However, as we often say, the devil is in the details.

[English]

For instance, while we on this side support this bill, we would like to see international trade regulated under free trade agreements or special agreements with other countries. In that way, everyone benefits — exporters, importers and consumers around the world. Agreements such as these bring a much needed level of certainty and predictability to the international trade regime, a predictability that has been sadly lacking since the collapse of the WTO talks in Cancun.

Another concern on this side of the chamber is that, through Orders in Council, the government sets tariffs on a more or less ad hoc basis. A particular tariff rate is settled upon for a particular country depending on — I will not say whim but depending on how the Department of Finance decides to treat a particular country. That is a concern for us, that officials in Finance can just set tariffs without reference to any real process for doing so.

Finally, I should like to talk about a related issue very briefly, an issue that was brought to the fore when this bill received scrutiny by the Banking, Trade and Commerce Committee. That issue is remission orders. These are waivers on import duties that certain industries can apply for if they feel they will be negatively affected by a tariff rate.

For instance, certain textiles, shirts, for example, are subject to remission orders. Remission orders reduce the duties in whole or in part on the imported good, providing the affected industry with transitional assistance to help them remain in business. Remission orders give them time to adjust to the increased competition.

As I understand it — and the government can correct me if I am wrong — the remission orders are due to expire at the end of this year. That expiry, it is felt, will have given affected Canadian manufacturers the time necessary to adjust to a more open and freer trading regime. We are not so sure. Neither were the witnesses who appeared before the Banking Committee, some of whom appealed to the committee quite vehemently. Their worry is that, when these particular remissions expire, their industries and companies will face a huge problem. This is an important issue, honourable senators, and one that we need to take seriously.

The heart of the matter is that, while it is very important to encourage economic growth in the developing world, we need to approach this in a way that does no harm to our own industries. There may be better ways to do this than remission orders, for instance, free trade agreements in which various tariff issues and remedies are negotiated ahead of time. However, until they are settled upon, we are stuck with the remission remedy.

Let me simply say, in conclusion, honourable senators, that in a rush to improve the lot of those in the developing world — and we should indeed be in a rush to do so — let us not forget those who toil in the Canadian industry.

The Hon. the Speaker *pro tempore*: Are honourable senators ready for the question?

Some Hon. Senators: Question!

The Hon. the Speaker *pro tempore*: It was moved by the Honourable Senator De Bané, seconded by the Honourable Senator Gill, that this bill be read the third time.

Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read third time and passed.

• (1430)

PUBLIC SAFETY BILL 2002

THIRD READING—MOTION IN AMENDMENT— DEBATE SUSPENDED

On the Order:

Resuming debate on the motion of the Honourable Senator Day, seconded by the Honourable Senator Léger, for the third reading of Bill C-7, to amend certain Acts of Canada, and to enact measures for implementing the Biological and Toxin Weapons Convention, in order to enhance public safety,

And on the motion in amendment of the Honourable Senator Nolin, seconded by the Honourable Senator Lynch-Staunton, that the Bill be not now read a third time but that it be amended, on page 103, by adding after line 26 the following:

“Review and Report

111.2 (1) Within three years after this Act receives royal assent, a comprehensive review of the provisions and operation of this Act shall be undertaken by such committee of the Senate, of the House of Commons or of both Houses of Parliament as may be designated or established by the Senate or the House of Commons, or by both Houses of Parliament, as the case may be, for that purpose.

(2) The committee referred to in subsection (1) shall, within a year after a review is undertaken pursuant to that subsection or within such further time as may be authorized by the Senate, the House of Commons or both Houses of Parliament, as the case may be, submit a report on the review to Parliament, including a statement of any changes that the committee recommends.”

Hon. Joseph A. Day: Honourable senators, I rise to speak briefly with respect to Senator Nolin's motion to amend Bill C-7. That motion to amend appears in our Order Paper for today.

I have taken the opportunity to carefully review the proposed amendment. I find it to be very similar to a review clause that appears in the Anti-terrorism Act.

Permit me, first, to thank Honourable Senator Prud'homme for his comments last evening with respect to the amendment, as well as Honourable Senator Banks, who spoke last evening with respect to the amendment following Senator Nolin's comments. I thank Senator Nolin for his insight and the time he spent speaking to this important government bill.

Honourable senators, this review clause was dealt with by the Standing Senate Committee on Transport and Communications, and both ministers who appeared before the committee dealt with the bill. Let me first deal with a question that was posed by Senator Banks during his comments. He asked: What harm would it do to have a review clause like this in the legislation? Honourable senators will appreciate that, from a legal point of view, the greater the number of clauses that appear in legislation, the more opportunity courts have to review and interpret. Unless it is necessary — and if it is necessary, then it should be there — a clause such as this also has an impact with respect to the agenda of Parliament and the government.

The question that really should be put to this chamber and to honourable senators is whether this review clause is necessary. I suggest to honourable senators that it is not necessary. Oversight is certainly an important issue to the government and is very important to the ministers who appeared before us. During my speeches at second and third reading, I discussed the many — and there are many — forms of oversight that appear with respect to different parts of this proposed legislation. I would remind honourable senators that this bill amends 23 different statutes. Thus, oversight with respect to certain statutes will be different from oversight with respect to others.

It is important for us to remember that the Senate, as well as the other place, can conduct a review of any legislation at any time, provided it is within its mandate to do so. If this body gives a mandate to a committee to review legislation, then that committee can review it at any time. The proposed amendment that is before us reads that “within three years” the legislation shall be reviewed, if the Senate decides to give that mandate to a committee.

I would suggest, honourable senators, that this body does not have to wait three years to review this proposed legislation. There are portions of this proposed legislation that, undoubtedly, honourable senators will want to keep a close watch on and will be asking questions about when the Commissioner of the RCMP or the Director of CSIS appear before their committee, or when one of the responsible ministers appears.

That is my first point, honourable senators. We have the mandate now.

Honourable senators, this proposed legislation is necessary. The Deputy Prime Minister said that there are gaps in our safety net to deal with emergency situations. This proposed legislation is urgently needed. That is what the minister told us.

Terrorism and emergencies are not going to go away. Regretfully, the Western world has witnessed many emergency-type situations in the past. The bill before us is designed to deal with the eventuality of such events happening again.

I would remind honourable senators that there is parliamentary oversight, in addition to this chamber having authority to give a mandate to its committees to review any of this legislation. Deputy Prime Minister Anne McLellan has proposed the creation of a national security committee of parliamentarians. Senator Kenny is our representative on the planning committee for this new committee. The Deputy Prime Minister pointed out that this committee will be made up of members of this chamber and of the other House who will be sworn in as Privy Counsellors. The committee will have authority to review all of the activities not only under this proposed legislation but also under the Anti-terrorism Act and any other incidental legislation.

Honourable senators, the objective of Senator Nolin's proposed amendment is to create parliamentary oversight. I have just reviewed two ways in which parliamentary oversight will exist: first, in the normal inherent right to review legislation; and second, in respect of the national security committee of parliamentarians, which I believe will create new ground vis-à-vis parliamentary oversight.

Honourable senators, in consideration of those two types of parliamentary oversight, and having in mind that the Anti-terrorism Act deals with Criminal Code activities, as opposed Bill C-7, which is not Criminal Code-oriented — not to mention that the Anti-terrorism Act was enacted very quickly after September 11, whereas this bill has gone through several reiterations — it is my submission that the answer to the question that I posed earlier, that is, whether this proposed amendment is necessary or desirable, is that it is not necessary, nor is it desirable. I would urge honourable senators to vote against the proposed amendment.

Hon. A. Raynell Andreychuk: Honourable senators, I wish to speak briefly to the amendment proposed by Senator Nolin.

Indeed, an oversight in the review process is necessary. I disagree with Senator Day's comments. Yes, we have the right to oversee all legislation. However, I would suggest that one could look at our records to see how often a review has been initiated that has not been mandated in legislation. If this process were so successful, we would not have put into legislation all the oversight clauses we have in the past decade, much of it initiated by senators in this place.

We have seen that that general power to investigate or to review simply has not worked, because of our workload and because once legislated is enacted it seems to fall off our radar or away from our scrutiny.

It was at one point deemed appropriate, and I would submit it is appropriate here, that we have a particular trigger — three years — to review legislation. In fact, I am not so certain that this in itself is as efficient as it should be. I would remind honourable

senators that the Anti-terrorism Act will, early this fall, reach its three-year mark. We are coming up to an election, which will be followed by a period restructuring, regardless of who wins the election, and I predict the three-year period will pass before any review starts. Thus, I believe we do need reminders and triggers in the legislation.

• (1440)

Senator Day has pointed out that Bill C-36 had to do more with criminal legislation. With respect, I think more criminal legislation is dealt with in Bill C-7 than there was in Bill C-36, because the innovative clauses in Bill C-36 were subject to a sunset clause, not to review. This bill encompasses more new issues. We have slowly built in review mechanisms to deal with circumstances where people are apprehended and held without public knowledge. There are no such mechanisms in Bill C-7. As I tried to point out, the interim orders are a new and innovative tool. We do not how they will be used and we will have no immediate scrutiny with respect to them. We will have only after-the-fact scrutiny.

Senator Austin said that he hoped for bipartisan support for changes to security. Here we are, on Bill C-7, making very reasonable requests for changes and input, and we are served with a notice of time allocation. That is hardly the way to assure me that the government is listening to our concerns. There is nothing built into this proposed legislation to allow for scrutiny.

With regard to the interim orders, as I pointed out, one can go to the courts, but one cannot appeal on the merits. Interim orders are broad, sweeping and much misunderstood, and we have no mechanism to review their appropriateness. We do not even know if they are constitutional.

In my speech yesterday, I did not touch on a matter that is most troubling, that is, the use of emergency measures. These emergency measures do not have to be disclosed to the public. We do not know how they will operate. The Canadian Bar Association said that the word "measure," as opposed to "interim orders" or something else, is not a legal term. "Measure" is used in normal conversation, but it has no meaning in criminal law. This is new.

Honourable senators should be worried that government will be given the tool of emergency measures to act to shut down activities and to intrude in people's lives when we are not even sure what the word "measure" means. We will not even know that emergency measures are being taken because there is no requirement for public accountability.

In light of these and other concerns, citizens should at least be given the assurance that there will be some review. Should the government be given all of the powers provided for in legislation, if that is deemed appropriate, at least we would have the comfort of knowing that the Senate has done its job of checking on the executive to ensure, three years hence, that these powers were necessary and are being used appropriately. If such a review in three years determines that these initiatives truly and significantly enhance our safety and security, I will be the first to support their continuance.

The Hon. the Speaker *pro tempore*: Are honourable senators ready for the question?

Hon. Senators: Question!

The Hon. the Speaker *pro tempore*: It being 2:45p.m., pursuant to the order adopted by the Senate on April 27, 2004, I must interrupt the proceedings for the purpose of putting all questions necessary to dispose of third reading of Bill C-250.

Debate suspended.

CRIMINAL CODE

BILL TO AMEND—THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Joyal, P.C., seconded by the Honourable Senator LaPierre, for the third reading of Bill C-250, to amend the Criminal Code (hate propaganda),

And on the motion in amendment of the Honourable Senator St. Germain, P.C., seconded by the Honourable Senator Stratton, that the bill be not now read a third time but that it be amended, on page 1, in clause 1, by replacing lines 8 and 9 with the following:

“by colour, race, religion, ethnic origin or sex.”.

The Hon. the Speaker *pro tempore*: The bell to call in the senators will be sounded for 15 minutes so that the vote will take place at 3 p.m.

Call in the senators.

• (1500)

Motion negatived on the following division:

YEAS

THE HONOURABLE SENATORS

Angus
Cochrane
Cools
Forrestall
Kelleher
Lawson
Lynch-Staunton

Meighen
Merchant
Plamondon
Sibbeston
St. Germain
Stratton
Tkachuk—14

NAYS

THE HONOURABLE SENATORS

Adams
Atkins
Austin
Bacon
Banks
Biron

Hubley
Jaffer
Joyal
Kenny
Kirby
Kroft

Bryden
Callbeck
Carstairs
Chaput
Christensen
Cook
Corbin
Day
Doody
Downe
Fairbairn
Ferretti Barth
Finnerty
Fitzpatrick
Fraser
Furey
Gauthier
Gill
Graham
Harb
Hervieux-Payette

Lapointe
Lavigne
Léger
Losier-Cool
Maheu
Mahovlich
Massicotte
Mercer
Morin
Munson
Murray
Pearson
Phalen
Ringuette
Robichaud
Rompkey
Smith
Spivak
Stollery
Watt—53

ABSTENTIONS THE HONOURABLE SENATORS

Andreychuk
Johnson
LeBreton

Nolin
Prud'homme
Rivest—6

The Hon. the Speaker *pro tempore*: Honourable senators, the question is on the main motion of the Honourable Senator Joyal seconded by the Honourable Senator LaPierre, for third reading of Bill C-250, to amend the Criminal Code (hate propaganda).

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

Senator Cools: No, never. It is a bad bill.

The Hon. the Speaker *pro tempore*: Will those in favour of the motion please say “yea”?

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore*: Will those opposed to the motion please say “nay”?

Some Hon. Senators: Nay.

The Hon. the Speaker *pro tempore*: In my opinion, the yeas have it.

And two honourable having risen:

• (1510)

[Translation]

Motion agreed to on the following division:

YEAS
THE HONOURABLE SENATORS

Adams
Andreychuk
Atkins
Austin
Bacon
Banks
Biron
Bryden
Callbeck
Carstairs
Chaput
Christensen
Cook
Corbin
Day
Doody
Downe
Fairbairn
Ferretti Barth
Finnerty
Fitzpatrick
Fraser
Furey
Gauthier
Gill
Graham
Harb
Hervieux-Payette
Hubley
Jaffer

Johnson
Joyal
Kenny
Kirby
Kroft
Lapointe
Lavigne
LeBreton
Léger
Losier-Cool
Maheu
Mahovlich
Massicotte
Mercer
Morin
Munson
Murray
Nolin
Pearson
Phalen
Prud'homme
Ringuette
Rivest
Robichaud
Rompkey
Smith
Spivak
Stollery
Watt—59

NAYS
THE HONOURABLE SENATORS

Angus
Cochrane
Cools
Forrestall
Lawson
Merchant

Plamondon
Sibbeston
St. Germain
Stratton
Tkachuk—11

ABSTENTIONS
THE HONOURABLE SENATORS

Kelleher
Lynch-Staunton

Meighen—3

Motion agreed to and bill read third time and passed.

QUESTION OF PRIVILEGE

SPEAKER'S RULING

The Hon. the Speaker *pro tempore*: Honourable senators, at 8 p.m., yesterday evening, Senator Cools was recognized to speak on a question of privilege. The senator had given proper written and oral notice earlier in the day as required by rule 43. The object of the question of privilege involved several claims as to the validity of proceedings of last Thursday, April 22 on Bill C-250, An Act to amend the Criminal Code (hate propaganda). These proceedings, according to Senator Cools, were irregular and out of order. As such, they breached the privileges of the senator as well as other senators who were thus deprived of their right to debate. It is the senator's position that the *Rules of the Senate* do not provide any opportunity for any closure or guillotine motion to be moved by a private member or on a private member's bill. In addition, Senator Cools claimed that as Speaker, I had acted improperly to curtail debate on Bill C-250 last Thursday when I recognized one senator over several others who had sought to be recognized.

Other senators expressed themselves with respect to the question of privilege. Senator Lynch-Staunton, the Leader of the Opposition, also challenged the nature of the proceedings of last Thursday. Although he accepted that Senator Murray's motion was in order, Senator Lynch-Staunton decried the fact that the Senate had been deprived of an opportunity to debate that motion through the use of the previous question. As he explained it, the result was that closure was imposed on Bill C-250 without the chance for further debate. Senator St. Germain and Senator Di Nino concurred with the views of Senator Lynch-Staunton and also questioned the right of a member to move closure because of the possible impact it could have on the rights of senators to participate in debate.

[English]

Senator Joyal then intervened to challenge some of the arguments that had been presented. The senator disputed the assertion that only a minister could propose a closure or a guillotine motion. He also cited rule 48 to explain how the previous question is permissible under current Senate practice. Shortly thereafter, Senator Austin, the Leader of the Government in the Senate, spoke to the question of privilege stating that the government had played no role in using the rule in the deliberation of Bill C-250. With respect to the possible use of closure on a private member's bill, the Senator Austin suggested that the matter was a serious one that deserved the attention of the Standing Committee on Rules, Procedures and the Rights of Parliament.

On the question as to which senator should have been recognized in debate last Thursday, Senator Austin cited rule 33, which provides a mechanism to resolve such a dispute when two or more senators are seeking to participate in debate at the same time.

[Translation]

Senator Cools then replied to some of these arguments contesting her position on the question of privilege. The senator rejected Senator Austin's suggestion about the use of rule 33 given what she described as the confused circumstances of last Thursday's proceedings. Senator Cools also dismissed the proposal to have the Rules Committee review the use of closure or the guillotine as it applies to private members' business since it would not be good enough to address the current problem facing the Senate. As to the position taken by Senator Joyal, Senator Cools contended that the fact that a practice is not forbidden in the *Rules of the Senate* does not mean that it is allowed in the context of the grand tradition of Parliament.

It was at this point that I agreed to take this question of privilege raised by Senator Cools under advisement.

[English]

I wish to thank honourable senators for their participation in this question of privilege. As you can appreciate, this is a difficult matter for me to address, since my actions as Speaker have been called into question. Nonetheless, I feel duty bound to deal with the issue of the question of privilege raised by Senator Cools. I believe that it is best to do this as expeditiously as possible. To delay a ruling would not serve the interests of the Senate. In the end, however, it will be up to the Senate to determine if my ruling, like my actions in the Chair, meets the standards required of the position.

Senator Cools has rightly reminded the Senate that the role of the Speaker in consideration of a question of privilege is limited to assessing whether there is a *prima facie* case, that is, whether the subject of the alleged breach is sufficiently serious to warrant further consideration by the Senate. My ruling is not intended to determine whether a breach of privilege has in fact occurred but to assess the nature of the alleged breach. In order to do this properly, I will confine myself to the facts and events of last Thursday and determine whether they were within the rules and practices of the Senate. This would allow me to determine whether a "grave and serious breach" has occurred as required by rule 43(1). If the events of last Thursday were outside our rules and practices, then it would seem to me that a *prima facie* question of privilege will have been established and Senator Cools would then have the right to move a motion to seek corrective action.

[Translation]

Let me begin then with an assessment of the motion of Senator Murray. The intent of the motion was very clear. By its terms, debate on Bill C-250 would be limited and all questions to dispose of the bill would be put at a set time. The motion does not pretend to use rule 39, which allows the government to seek time allocation with respect to an item of government business. Instead, it is a substantive motion, requiring one day's notice under rule 58(1)(i), creating a special order to deal with the

disposition of a particular bill. Is such a motion in violation of the rules and practices of the Senate? While there is no doubt that it is unusual, I do not think so. Since the Senate has complete control over the disposition of the motion, it maintained its fundamental privilege to determine its own proceedings.

• (1520)

It did not happen as a result of a decision by the Speaker. Therefore, there is no *prima facie* question of privilege based on this motion.

A question has been raised with respect to the fact that Senator Joyal was recognized after Senator Murray had moved his motion. It has been argued that, as Speaker, my actions interfered with the rights of other senators who had wanted to speak in debate. This allegation is based, at least in part, on the fact that Senator Joyal moved the previous question. While it is true that other senators did seek to be recognized, Senator Joyal was among them and so I called on him. This was not unwarranted and it is within the rules and practices of the Senate. Senator Joyal was, in fact, the seconder of Senator Murray's motion. Citation 462 of the sixth edition of Beauchesne's at page 137 points out that "the mover and the seconder are recognized first." While it is not usually the case in the Senate for seconds to seek recognition immediately following the mover of a motion, there is no binding prohibition to prevent it. I saw Senator Joyal rising and I called on him to speak in the debate. Did my action constitute a *prima facie* breach of privilege? I do not think so.

Senator Austin suggested during his intervention, that in any dispute about who should be recognized for the purposes of debate, it is in order to invoke rule 33 to request that a particular senator "be now heard" or "do now speak." Such a question is put without debate or amendment and it allows the Senate itself, not the Speaker, to decide who will speak next in debate. This did not happen last Thursday. Consequently, Senator Joyal properly had the floor. He promptly moved the previous question, which is allowed under rule 48. This rule stipulates that when a question is under debate, it is permissible among other things to move the previous question. There is no restriction on the application of the previous question so long as there is no amendment outstanding to the original question. It can be applied to bills or motions whether sponsored by the government or a senator. Furthermore, rule 48(2) explains that the previous question is debatable and that it has the effect of preventing the introduction of an amendment to the original motion.

If carried, the previous question will immediately terminate debate on the original motion. If defeated, however, the original motion is dropped from the Orders of the Day. The outcome is a decision of the Senate. It is not imposed by the senator who moved the previous question. No senator was improperly deprived of a right to speak in debate, either on the previous question or the motion of Senator Murray since it is perfectly in order to address the motion of Senator Murray while speaking on the previous question moved in relation to it.

As I mentioned, the only limitation was that it would not have been possible to move an amendment to Senator Murray's motion while the previous question was before the Senate.

[The Hon. the Speaker *pro tempore*]

This is where there seems to have been some confusion about the operation of the previous question. In reviewing the *Debates of the Senate* of April 22, various exchanges among the senators leave the impression that some senators thought that the previous question had completely deprived them of their right to speak in debate. This is my reading of the exchanges that are recorded between Senator Stratton and Senator Robichaud on page 894 before Senator Robichaud explained how the motion of the previous question actually operates on page 895.

Shortly thereafter, Senator Stratton moved to adjourn the debate on the previous question. This motion was defeated on a recorded division and the sitting of the Senate was then suspended for approximately two hours. When the Senate resumed at 8 p.m., there was debate on the previous question by Senator Stratton. In the course of his brief remarks, he stated that “the previous question forces an immediate vote.” He then moved a motion to adjourn the Senate, which was defeated on another recorded division. What follows are several pages of debate on the merits of the previous question as a procedural tactic before the motion was put to the Senate as a question and the vote was deferred until Tuesday, yesterday, at 5:30 p.m.

Do the debates and proceedings of last Thursday afternoon and evening substantiate in any way the finding of a *prima facie* question of privilege? I do not think so. While there was some misunderstanding about the nature of the previous question, this confusion does not itself invalidate the use of that motion. As I have already mentioned, the *Rules of the Senate* specifically allow for it without regard to the nature of the motion to which it can be applied. More important, perhaps, the rules do not restrict how soon it can be applied; it can be proposed at any time as long as there is no amendment outstanding to the motion. With respect to the opportunity to debate, the parliamentary authorities admit that the previous does not deprive members of the opportunity to debate. On the contrary, they often note how members who have already spoken to the main motion can speak again once the previous question is moved. That this did not happen in this case, because the previous question was moved so quickly, does not constitute a breach of our rules and is not a *prima facie* question of privilege.

Rule 43(1) states that an alleged question of privilege must meet certain criteria if it is to be given priority of consideration over all other business before the Senate. Among them is one “to correct a grave and serious breach.” Based on my review and explanation of the events which occurred in the Senate last Thursday, I do not find that there is any *prima facie* evidence to support the allegation of a question of a privilege. Accordingly, it is my ruling that there is no *prima facie* question of privilege.

[English]

PUBLIC SAFETY BILL 2002

THIRD READING—MOTION IN AMENDMENT—
VOTE DEFERRED

On the Order:

Resuming debate on the motion of the Honourable Senator Day, seconded by the Honourable Senator Léger, for the third reading of Bill C-7, to amend certain Acts of Canada, and to enact measures for implementing the

Biological and Toxin Weapons Convention, in order to enhance public safety,

And on the motion in amendment of the Honourable Senator Nolin, seconded by the Honourable Senator Lynch-Staunton, that the Bill be not now read a third time but that it be amended, on page 103, by adding after line 26 the following:

“Review and Report

111.2 (1) Within three years after this Act receives royal assent, a comprehensive review of the provisions and operation of this Act shall be undertaken by such committee of the Senate, of the House of Commons or of both Houses of Parliament as may be designated or established by the Senate or the House of Commons, or by both Houses of Parliament, as the case may be, for that purpose.

(2) The committee referred to in subsection (1) shall, within a year after a review is undertaken pursuant to that subsection or within such further time as may be authorized by the Senate, the House of Commons or both Houses of Parliament, as the case may be, submit a report on the review to Parliament, including a statement of any changes that the committee recommends.”

The Hon. the Speaker *pro tempore*: Are honourable senators ready for the question?

Hon. Senators: Question!

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion in amendment?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker *pro tempore*: Those in favour of the motion in amendment will please say “yea.”

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore*: Those opposed to the motion in amendment will please say “nay.”

Some Hon. Senators: Nay.

The Hon. the Speaker *pro tempore*: In my opinion, the “nays” have it.

And two honourable senators having risen:

• (1530)

Hon. Terry Stratton: In accordance with rule 67(2), I would like to defer the vote until 5:30 p.m. at the next sitting of the Senate.

Hon. Rose-Marie Losier-Cool: As tomorrow is Thursday, would the honourable senator agree to having the vote at five o'clock?

Senator Stratton: I would prefer to follow the rule and have the vote at 5:30 p.m.

The Hon. the Speaker pro tempore: Accordingly, the vote is deferred to the next sitting of the Senate, at 5:30 p.m.

LOUIS RIEL BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Joyal, P.C., seconded by the Honourable Senator Gill, for the second reading of Bill S-9, to honour Louis Riel and the Metis People.—(*Honourable Senator Maheu*).

Hon. Shirley Maheu: Honourable senators, there have been many fine speeches on the subject of Louis Riel and the contribution of the Metis people to our national life. These speeches have recounted the facts of Riel's political career, his military endeavours, the details of his trial and execution and the ongoing controversy about his appropriate place in Canadian history. In particular, I commend the efforts of our former colleague Senator Chalifoux in this regard and the current sponsorship of this bill by Honourable Senators Joyal and Gill.

It would be remiss of me not to mention the determination of the Honourable Denis Coderre to address the issue of Riel's rightful place in Canadian Confederation.

It is not my purpose today to review this material or reinvent any of the details of the debate. I wish to say, however, that I believe that Louis Riel was more than simply a catalyst in the development of our nationhood. He was one of the founders of our nation and remains an important icon for many in the generations that followed him.

I support, without equivocation, the efforts of so many to honour the memory of Louis Riel, and I deplore the stubborn resistance of those who choose to continue to deprive his name of a dignified place in our nation's history.

Many soldiers left their homes across our young nation to fight in the Second Riel Rebellion at Batoche, northern Saskatchewan, in 1885. It was a galvanizing event for both the government of Sir John A. Macdonald and for Canada's Metis.

One of the largest contingents was from Ontario's Midland Battalion of the Midland District. This included recruits of divisions from Kingston, Belleville, Lindsay, Port Hope and the Millbrook area southwest of Peterborough.

The Millbrook division was made up of 41 soldiers, a rather large number considering the small local population at the time. Two young army lads from this division by the names of Ed McCurry and Ira Nattress were among those who actually captured Riel, took him to Regina, and guarded him while he was on trial. They finally returned to Millbrook, Ontario, in the end.

These lads did not return to Millbrook empty-handed. They took with them what was considered by many at the time to be the great prize of the Second Riel Rebellion, namely, the Bell of Batoche.

This silver-plated bell had been baptized and given the name Marie Antoinette by the local clergy. It had engraved on it the imprimatur of the reigning bishop. It weighs 40 kilograms — that is 88 pounds — and originally cost \$25. It was placed in the church of St. Antoine de Padoue in 1884. The church and the rectory remain today on the grounds of the Batoche National Historic Site, the only structures not destroyed during the rebellion.

The Bell of Batoche was the clarion call for the Metis to attend mass. The lads from Millbrook, after having participated in the capture of Riel, removed the bell and took it to their hometown. The Bell of Batoche had been in the Batoche church for only one year.

Millbrook is in the heart of Ontario's orange belt, which runs from the Chatham-London area north through Stratford, across to Orangeville, Barrie, Midland and Orillia, on to Lindsay and Peterborough, south to Millbrook, Bowmanville, Port Hope and Cobourg, and ends farther east in Trenton and Belleville, with a spin-off north to Perth, near Ottawa.

Coincidentally, the orange belt of Ontario is also the snow belt of southern Ontario. It is in this region that some of Ontario's most fertile soil produces marvellous cash crops, being the result of all the winter precipitation. As well, this is the strongest area of traditional support for the Progressive Conservative Party anywhere in Ontario and rivalled any other comparable area of support for that party in Canada.

It is not a coincidence that this is also the area where there has been little support for the rehabilitation of the good name of Louis Riel. It is this area that so strongly supported the provincial electoral victories of Drew, Frost, Robarts, Davis and Harris. It is this gang that never saw Canadian Confederation as broad enough to include the realities of Canadian Aboriginal history and, in particular, Metis history and its focal and pivotal figure, Louis Riel.

The Bell of Batoche, brought by Ed McCurry and Ira Nattress, was deposited in Millbrook, in the heart of the orange belt, and put on display as one of the semi-sanctified spoils of war. The bell hung for many years in the Millbrook Fire Hall and later in the Royal Canadian Legion branch on the main street of Millbrook, where a picture window was constructed on the front of the building to display the bell. Afterward, the good burghers of Millbrook could view the Bell of Batoche on their way to shop or to work during the week and especially on their way to church on Sunday.

Needless to say, there was no Roman Catholic Church in the village of Millbrook for any of them to walk to. This reality is symbolic of another element in the long-term challenge to give Riel a dignified place in the pantheon of names of those we should honour as the creators of today's Canada.

There is more to this story, honourable senators. One night, in 1991, the Bell of Batoche was stolen from the Royal Canadian Legion in Millbrook. The thieves have never been apprehended. The Ontario Provincial Police have information that the bell was whisked away under cover of darkness in a pickup truck with Saskatchewan licence plates. This occurred 106 years after the bell was originally stolen from the church at Batoche in 1885.

The bell has not reappeared in Batoche, however, or in Saskatchewan or anywhere else, but there is a certain former senator who retired from our chamber not too long ago who believes that the Bell of Batoche is not lost forever and is being kept safely and secretly out of sight until the appropriate moment when it will be returned to the church from which it was taken during the rebellion.

Feelings of intensity remain about the conflict at Batoche. The community was completely destroyed during the rebellion and has never been rebuilt. The defeat of the Metis led to the execution of the charismatic Riel.

I have a vision that dignifying the memory of Louis Riel and at the same time returning the Bell of Batoche to its rightful place could form the basis of a solemn national ceremony of remembrance and reconciliation. Such an event should be led by the Governor General, and in the company of both the Prime Minister and the Leader of Her Majesty's Loyal Opposition. Their combined presence would illustrate an extraordinary symbolic recognition of the injustices of 119 years ago.

• (1540)

Finally, I believe that to hear the Bell of Batoche ringing again in the Metis heartland from its rightful home in the church would be the truly moving culmination of a significant chapter in our nation's history.

Let us act together now, in this chamber, to pass this legislation to honour Louis Riel and the Metis people.

On motion of Senator St. Germain, debate adjourned.

ROYAL CANADIAN MOUNTED POLICE ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Nolin, seconded by the Honourable Senator Lynch-Staunton, for the second reading of Bill S-12, to amend the Royal Canadian Mounted Police Act (modernization of employment and labour relations).
—(Honourable Senator Rompkey, P.C.).

Hon. Gerard A. Phalen: Honourable senators, as a supporter of the collective bargaining rights of Canadian workers, I am pleased to rise before you today to express my support for Bill S-12, to amend the Royal Canadian Mounted Police Act regarding the modernization of employment and labour relations.

The following paragraph of the preamble to Bill S-12 is a good synopsis of why we in this chamber should support this proposed legislation. It states:

AND WHEREAS the Parliament of Canada considers that good staff relations and the constructive and transparent settlement of disputes within the Royal Canadian Mounted Police are in the best interests of Canada, help to maintain a responsible and effective national civilian police force and enhance public protection;

A number of concerns about this bill have been brought to my attention by some of my colleagues. I should like to use my time today to address those concerns.

One of the first concerns one hears when one raises the subject of unionization for the RCMP harkens back to the 1945 Order in Council regarding the Rules and Regulations for the Government and Guidance of the RCMP, which read in part:

Membership in any organization or union, which by its nature may influence or constrain the individual concerned against the impartial exercise of his duty is prohibited to members of the Force.

I, for one, strongly believe in the impartiality and the loyalty of the RCMP and do not believe that union membership jeopardizes this.

There are two reasons for my belief. First, we have a lengthy history in this country of police unionization. All of our provinces, for many years now, have allowed their police forces to form associations and bargain collectively on behalf of their members. While the majority of our provinces allow their police officers to join police associations, four of our provinces even allow their police officers to join public unions. Nevertheless, we enjoy some of the best police services in the world. Even our own security forces here on Parliament Hill have had the right to unionize for many years. I see no evidence that this has caused any breakdown in the exercise of their duties.

Second, although the 1990 Federal Court decision in *Delisle v. The Royal Canadian Mounted Police Commissioner* and the subsequent 1999 Supreme Court decision ruled that the Charter did not give members of the RCMP the right to form accredited associations for the purpose of collective bargaining, both courts ruled that members of the Royal Canadian Mounted Police, like all Canadians, do have the right to form and belong to employee associations.

Honourable senators, that court decision was 14 years ago. I see no evidence in the last 14 years that belonging to an employee association has caused any breakdown in the impartiality or the loyalty of the RCMP.

Another concern that has been brought to my attention is the possibility of a strike by members of the RCMP. First, let me make it clear that the legislation strictly prohibits members of the RCMP from striking. In fact, section 35.2 clearly states:

No employee shall participate in a strike.

Furthermore, section 35.4(1) states:

Every employee who contravenes section 35.2 is guilty of an offence and liable on summary conviction...

Is fear of a strike legitimate in Canada? In researching this issue, I was surprised to learn that police forces in five different provinces have had the right to strike, yet it was interesting to learn that the last two police strikes in Canada were in 1984, in my own hometown of Glace Bay, Nova Scotia, and in 1985, in Chatham, New Brunswick. Honourable senators, despite the number of police forces who have had the right to strike, it has been almost 20 years since there has been a police strike in Canada.

The concern has been raised with me that, if we allow the RCMP to unionize, then surely the Armed Forces will be next. Upon review of the RCMP Act and the National Defence Act, we see a number of distinctions between the roles of the members of those two bodies, as well as distinctions in the status of their members.

Section 18 of the RCMP Act defines the role of its members as peace officers, as well as their role in law enforcement. Alternatively, sections 273.6 and 275 of the National Defence Act do not give law enforcement duties to members of the Armed Forces. Instead, they allow only for the Armed Forces to come out in aid of the civil power to restore public order or to protect the national interest.

Honourable senators, that is a clear distinction. The RCMP is a civil authority empowered to uphold the laws of our country, while the Armed Forces is charged with defending Canada from foreign threat and can only be called upon within Canada as an aid to civil authority and not in a law enforcement capacity.

The other significant distinction between members of the RCMP and members of the Armed Forces is their employment status. Members of the RCMP are considered employees and public servants. Officers of the Armed Forces are not, for legal purposes, considered employees. Instead, they hold commissions in the Armed Forces and serve at the pleasure of Her Majesty. This difference in the status of members of the Armed Forces is such that, if they were to go on strike, they would have left their posts and would be charged with desertion.

The final concern I will address is whether the current systems for dealing with staff grievances and serious disciplinary actions are adequate.

In the case of grievances, the Commissioner's Standing Orders for grievances sets out two levels for employee grievances. In all cases, section 2(1) of the Standing Orders defines the person responsible for dealing with the grievances at level one as an officer or senior manager of the RCMP designated by the commissioner. Level two, the final level in the grievance process, is set out in section 32(1) of the RCMP Act, which states:

The Commissioner constitutes the final level in the grievance process and the Commissioner's decision in respect of any grievance is final and binding.

In matters of formal discipline, discharge and demotion, grievances are referred to a committee, but section 32(2) clearly states:

The Commissioner is not bound to act on any finding or recommendations set out in a report with respect to a grievance referred to the Committee.

Honourable senators, systems for dealing with employees' grievances such as these are completely unacceptable for the simple fact that the final level in the process is the Commissioner of the RCMP himself, and there is not external, independent, final binding review. When the final decision-making power lies within the organization itself, it is neither transparent, independent nor impartial.

• (1550)

Honourable senators, the system in place for our own security services in the Senate provides for an external and binding final level in the grievance procedure before the Public Service Staff Relations Board.

Bill S-12 would abolish the current systems for dealing with grievances and serious disciplinary actions and replace these systems with grievance procedures under which the final level would be an external independent arbitration procedure. Under this procedure, when a grievance has been through all the levels of the internal grievance procedure, it could then be referred to an external arbitration board. This new procedure would be supervised by the Public Service Staff Relations Board and the final decision would be binding.

Honourable senators, I believe that the members of the RCMP who protect us both here on Parliament Hill and throughout Canada should have the same rights as other government employees to join employee associations and bargain collectively. I also believe that the RCMP must be given a transparent and independent grievance system. These dedicated men and women deserve these benefits and it is time we pass legislation to bring their employee relations system into the 21st century.

Some Hon. Senators: Hear, hear!

The Hon. the Speaker *pro tempore*: Are honourable senators ready for the question?

Hon. Senators: Question!

The Hon. the Speaker *pro tempore*: It was moved by the Honourable Senator Nolin, seconded by the Honourable Senator Lynch-Staunton, that this bill be read the second time.

Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker *pro tempore*: When shall this bill be read the third time?

On motion of Senator Stratton, bill referred to the Standing Senate Committee on National Finance.

**RULES, PROCEDURES AND
THE RIGHTS OF PARLIAMENT**

**MOTION TO AUTHORIZE COMMITTEE
TO STUDY PRIVATE MEMBERS' BUSINESS—
ORDER STANDS**

On the Order:

That the Standing Committee on Rules, Procedures and the Rights of Parliament study the manner in which Private Members' Business, including Bills and Motions, are dealt with in this Chamber and that the Committee report back no later than November 30, 2004.—(*Honourable Senator Cools*).

An Hon. Senator: Stand.

Hon. Sharon Carstairs: Honourable senators, I should have liked to ask the Honourable Senator Cools when she intends to speak to this item. Honourable senators, this item has been on the Order Paper since February 19. I simply want the Standing Committee on Rules, Procedures and the Rights of Parliament to conduct a study on Private Members' Business, something that is long overdue.

Honourable senators, I shall be moving the previous question at the next sitting.

Hon. John Lynch-Staunton (Leader of the Opposition): The honourable senator cannot do that; she has spoken. The mover of a motion cannot move the previous question.

Order stands.

CULTURE OF LIBERAL GOVERNMENT

INQUIRY—DEBATE ADJOURNED

Hon. Marjory LeBreton rose pursuant to notice of February 11, 2004:

That she will call the attention of the Senate to the culture of corruption pervading the Liberal government currently headed by Prime Minister Paul Martin.

She said: Honourable senators, I wish to speak to this inquiry that I have put down, which will drop off the Order Paper today. However, honourable senators, I am mindful of the four o'clock time frame for committee meetings. Hence, I am in your hands. I can start my 15-minute speech now, or with the indulgence of the chamber, I can make this speech tomorrow.

Senator Robichaud: Say a few good words and take the adjournment.

Senator LeBreton: I shall be happy to do so.

Honourable senators, as I have said to many of my colleagues, this has been the most difficult speech that I have ever had to write; it is a work in progress. Every time I finish writing the speech, another headline appears that causes me to rewrite the speech. The fact that I have this ongoing work in progress proves that there is a culture.

Honourable senators, I shall take the advice of the Honourable Senator Robichaud and move the adjournment of the debate.

On motion of Senator LeBreton, debate adjourned.

[*Translation*]

OFFICIAL LANGUAGES

**COMMITTEE AUTHORIZED TO EXTEND DATE
OF FINAL REPORT ON STUDY ON OPERATION
OF OFFICIAL LANGUAGES ACT AND RELEVANT
REGULATIONS, DIRECTIVES AND REPORTS**

Hon. Maria Chaput, pursuant to notice of April 21, 2004, moved:

That, notwithstanding the Order of the Senate adopted on February 19, 2004, the date for the final report by the Standing Senate Committee on Official Languages on its study of the operation of the Official Languages Act be extended from June 30, 2004, to March 31, 2005.

Motion agreed to.

The Senate adjourned until Thursday, April 29, 2004, at 1:30 p.m.

Wednesday, April 28, 2004

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OFFICIAL REPORT
(HANSARD)

Thursday, April 29, 2004

THE HONOURABLE LUCIE PÉPIN
SPEAKER *PRO TEMPORE*



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(Daily index of proceedings appears at back of this issue).

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THE SENATE

Thursday, April 29, 2004

The Senate met at 1:30 p.m., the Speaker *pro tempore* in the Chair.

Prayers.

[Translation]

ROYAL ASSENT

The Hon. the Speaker *pro tempore* informed the Senate that the following communication had been received:

RIDEAU HALL

April 29, 2004

Mr. Speaker,

I have the honour to inform you that the Right Honourable Adrienne Clarkson, Governor General of Canada, signified Royal Assent by written declaration to the bills listed in the Schedule to this letter on the 29th day of April, 2004, at 9:50 a.m.

Yours sincerely,

Barbara Uteck
Secretary to the Governor General

The Honourable
The Speaker of the Senate
Ottawa

Bills Assented to Thursday, April 29, 2004:

An Act to amend the Customs Tariff (*Bill C-21, Chapter 13, 2004*)

An Act to amend the Criminal Code (hate propaganda) (*Bill C-250, Chapter 14, 2004*)

Honourable senators, I will be asking the Speaker *pro tempore* of the Senate to make a ruling of prima facie privilege. If Her Honour so finds, I am prepared to move the necessary motion for debate.

[Translation]

THE LATE FATHER ANSELME CHIASSON, O.C. THE LATE LÉONE BOUDREAU-NELSON, O.C.

Hon. Rose-Marie Losier-Cool: Honourable senators, it is with sadness that I rise to inform those who have not already heard that Acadia has lost two of its greatest citizens this week. Capuchin father Anselme Chiasson, better known to everyone back home as "Father Anselme", died Sunday evening from a bad case of the flu. He was 93 years old. Born in Chéticamp, Nova Scotia, in 1911, Father Chiasson, a historian and ethnologist, had a profound influence on Acadian history and culture.

After classical studies in Ottawa and theological studies in Montreal, he was ordained in 1938 and became the priest in charge of Saint-François d'Assise parish on Wellington Street, here in Ottawa. After moving to Moncton in the late 1950s, he began his visits to nearly every Acadian village to collect, document and transmit their stories, legends and customs. Among his publications were eight books of Acadian songs that are still the foundation of our folklore.

He was present at the birth of the Université de Moncton and he helped to create the Centre d'études acadiennes, which he directed from 1974 to 1976. He was a co-founder of the Société historique acadienne, and the editor of its journal for ten years. He received many honours, including the Order of Canada, the Ordre des francophones d'Amérique, the Ordre national du mérite français, and the Ordre de la Pléiade; a bursary for academic merit at the Université de Moncton bears his name as well.

In a sad coincidence, one of Father Chiasson's best friends, Léone Boudreau-Nelson has also died, on Monday evening following a long illness she had kept secret. With diplomas in education from the Université Saint-Joseph and in phonetics from the Université de Paris, Ms. Boudreau-Nelson was a teacher in New Brunswick's public schools for a long time before going to teach phonetics at the Université de Moncton.

In addition to her career as an educator, for 18 years she was the president of the Société historique acadienne, founded by Father Anselme. She also had received the Order of Canada, the Ordre des francophones d'Amérique, the Ordre national du mérite français, and many other decorations. She was an honorary citizen of Louisiana, and Saint Pierre and Miquelon.

Indeed, Acadians are in mourning. They have lost two great beacons this week, honourable senators, and I share their grief.

[English]

SENATORS' STATEMENTS

QUESTION OF PRIVILEGE

NOTICE

Hon. Anne C. Cools: Honourable senators, pursuant to rule 43(7), of the *Rules of the Senate*, I give oral notice that I will rise later this day to raise a question of privilege in respect of words spoken during Senate proceedings on Wednesday, April 28, 2004. Earlier today, in accordance with rule 43(3), I gave written notice of the same to the Clerk of the Senate.

THE SENATE

[English]

CONTRACT WITH CABLE PUBLIC AFFAIRS CHANNEL

Hon. Lise Bacon: Honourable senators, it is with great pleasure that I announce today that a new agreement to broadcast the work of the Senate was recently signed with the Cable Public Affairs Channel, CPAC.

The Senate and CPAC are entering into a new era of relations marked by dialogue and cooperation. The new agreement we have in hand will cover the five and half years remaining on the CPAC licence.

[English]

Last November, the members of the Standing Committee on Internal Economy, Budgets and Administration met with the board of directors of CPAC, including its President, Mr. Ken Stein, in order to discuss broadcasting-related issues.

• (1340)

The exchange was frank and positive for both the Senate and CPAC, and a desire to reach an agreement on broadcasting, taking into account the important work of the Senate and having in mind the other obligations CPAC is facing, was a priority for both parties. The agreement that was signed recently certainly is a solid foundation upon which we can build.

[Translation]

Major progress was made with the granting of twenty hours of programming a week for the Senate, which is a significant gain of five hours over the current agreement. That represents eight hours of programming in the evening and twelve hours during the day. Moreover — and this is well known — having fixed blocks in the schedule is conducive to building up a faithful audience. Now more than ever we will be able to promote the excellent work done by our committees to the Canadian public.

Television as a medium reaches many people and we must maximize the use of our resources and capabilities. Blair Armitage, Principal Clerk at Legislative Services, will now add supervisor of broadcast activities to his list of responsibilities. An informal working group, under the authority of the Standing Committee on Internal Economy, was set up to provide advice on our strategy for television programming. It consists of Senators Jim Munson, Marie Poulin and Pat Carney. I thank them for their cooperation.

In addition to the agreement, CPAC has promised, in a letter from its President and General Manager, to continue to provide senators the opportunity to take part in CPAC public affairs programs in order to shed light on the work of the Senate. CPAC will also consider the Senate in its plan to develop continuous transmission Internet channels and will provide it with detailed data each week on the committee broadcasts.

The new agreement will certainly be very beneficial in the future. It is without a doubt the start of a new, very positive relationship with CPAC, the beginning of a period of closer cooperation, and we will reap the benefits I am sure.

INTERNATIONAL DANCE DAY

Hon. Elizabeth Hubley: Honourable senators, dance is perhaps the most ancient form of human expression. It transcends all borders and generations. Through the physical language of the body, dance has a powerful connection with the emotional and spiritual worlds. As the distinguished Australian choreographer, Stephen Page, has said, "...dance represents human identity and a celebration of the human spirit..." When we dance, honourable senators, we communicate at a higher level than when we exchange words, because our soul is in flight.

For many years now, dancers throughout the world have been celebrating April 29 as International Dance Day. In her official message, Canada's Minister of Canadian Heritage, the Honourable Hélène Chalifour Scherrer, has urged all of us to get swept up in the passion, creativity and energy of our dancers. I certainly share her enthusiasm. As some of you undoubtedly know, my association with the world of dance is a very personal one. I continue to teach traditional dance in my own province of Prince Edward Island.

From one end of the country to the other, there are hundreds of festivals, ceilidhs, performances and dance-related events happening year-round. Please take the opportunity to experience the joy and freedom of dance in all its myriad forms, traditions and styles. To our Aboriginal peoples, dance has a special meaning. It is a kind of sacred medicine.

Honourable senators, in this stressful and demanding world, dance definitely is good for what ails you.

[Translation]

A POEM OF HOPE

Hon. Jean Lapointe: Honourable senators, when I was seven or eight years old, I loved listening to Paul-Émile Corbeil recite Jean Narrache poems on the radio. I could not explain why I was attracted, at such a young age, to his poems, which touched my soul.

This morning I decided that today in the Senate I would recite a poem I dashed off while sitting on my bed. I went to my office and, my assistant, Ms. Charron, Pascal and my entire team told me I should share it with you. Please forgive me if I borrow Paul-Émile Corbeil's voice to tell you my thoughts, but this is a message of hope for my party.

Spring has come knocking
The signs are so clear
Gone are the dead leaves
Of autumn last year

Cold winds still linger
Though May's on the way
And Martin our leader
Is man of the day

Call an election
But when, we all ask
Must get it right
To in victory bask

I would go early
Momentum is right
Sponsorship scandals
No longer cling tight

New winds are blowing
We're picking up speed
Thanks to Joe Clark now
We'll stay in the lead

All that we've done in
The last dozen years
Nix to Iraq and
Kyoto got cheers

Scholarship money
The clarity plan
Deficit wiped out
Paul Martin's our man

Bailed out the farmers
Helped fishers to sea
Seasonal workers
Were pleased, as was he

Things are not smooth now
The going is tough
Canadians like those
Who handle the rough

Voters will vote for
The right man again
Not to be tricked by
Incompetent men

Opposition divided
The landslide is nigh
None will contain us
Our ratings are high

Just a few verses
I dashed off, sincere
Heartfelt and honest
I love living here

[English]

ROUTINE PROCEEDINGS

AMENDMENTS AND CORRECTIONS BILL, 2003

REPORT OF COMMITTEE

Hon. George J. Furey, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, April 29, 2004

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

[Senator Lapointe]

SEVENTH REPORT

Your Committee, to which was referred Bill C-17, to amend certain Acts, has, in obedience to the Order of Reference of Tuesday, March 9, 2004, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

GEORGE FUREY
Chair

The Hon. the Speaker pro tempore: Honourable senators, when shall this bill be read the third time?

On motion of Senator Rompkey, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

PARLIAMENT OF CANADA ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Joyce Fairbairn, for Senator Kirby, Chair of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Thursday, April 29, 2004

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

FIFTH REPORT

Your Committee, to which was referred Bill C-24, to amend the *Parliament of Canada Act*, has, in obedience to the Order of Reference of Monday, March 29, 2004, examined the said bill and now reports the same without amendment.

Your Committee appends to this report certain observations on the bill.

Respectfully submitted,

JOYCE FAIRBAIRN, P.C.
For the Chair

(For text of observations, see Appendix, p. 993.)

The Hon. the Speaker pro tempore: Honourable senators, when shall this bill be read the third time?

On motion of Senator Morin, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

• (1350)

[Translation]

ASSEMBLÉE PARLEMENTAIRE DE LA FRANCOPHONIE

EDUCATION, COMMUNICATION AND CULTURAL AFFAIRS COMMITTEE MEETING, APRIL 15-18, 2004—REPORT TABLED

Hon. Rose-Marie Losier-Cool: Honourable senators, pursuant to rule 23(6), I have the honour to table, in both official

languages, the report of the Canadian Branch of the Assemblée parlementaire de la Francophonie (APF), as well as the related financial report. The report is on the meeting of the APF Committee on Education, Communication and Cultural Affairs held in Bucharest, Romania, from April 15 to 18, 2004.

PARLIAMENTARY AFFAIRS COMMITTEE MEETING,
APRIL 7-10, 2004—REPORT TABLED

Hon. Pierre De Bané: Honourable senators, pursuant to rule 23(6), I have the honour to table, in both official languages, the report of the parliamentary delegation of the Canadian Branch of the Assemblée parlementaire de la Francophonie (APF), as well as the related financial report. The report is on the meeting of the APF Parliamentary Affairs Committee meeting held in Vientiane, Laos, from April 7 to 10, 2004.

[English]

INEQUALITIES IN VETERANS
INDEPENDENCE PROGRAM

NOTICE OF INQUIRY

Hon. Catherine S. Callbeck: Honourable senators, pursuant to rule 57(2), I give notice that on Tuesday, May 4:

I will draw the attention of my colleagues to the inequalities in the Veterans Independence Program.

[Translation]

OFFICIAL LANGUAGES

BILINGUAL STATUS OF CITY OF OTTAWA—
PRESENTATION OF PETITION

Hon. Jean Lapointe: Honourable senators, pursuant to rule 4(h) of the *Rules of the Senate*, I have the honour to table petitions signed by 25 people asking that Ottawa, the capital of Canada, be declared a bilingual city and the reflection of the country's linguistic duality.

The petitioners pray and request that Parliament consider the following:

That the Canadian Constitution provides that French and English are the two official languages of our country and have equality of status and equal rights and privileges as to their use in all institutions of the government of Canada;

That section 16 of the Constitution Act, 1867 designates the city of Ottawa as the seat of the government of Canada;

That citizens have the right in the national capital to have access to the services provided by all institutions of the government of Canada in the official language of their choice, namely English or French;

That the capital of Canada has a duty to reflect the linguistic duality at the heart of our collective identity and characteristic of the very nature of our country.

Therefore, your petitioners ask Parliament to confirm in the Constitution of Canada that Ottawa, the capital of Canada — the only one mentioned in the Constitution — be declared officially bilingual, pursuant to section 16 of the Constitution Act, from 1867 to 1982.

Hon. Jean-Robert Gauthier: Honourable senators, pursuant to rule 4(h) of the *Rules of the Senate*, I have the honour to table petitions signed by 169 people asking that Ottawa, the capital of Canada, be declared a bilingual city and the reflection of the country's linguistic duality.

The petitioners pray and request that Parliament consider the following:

That the Canadian Constitution provides that French and English are the two official languages of our country and have equality of status and equal rights and privileges as to their use in all institutions of the government of Canada;

That section 16 of the Constitution Act, 1867 designates the city of Ottawa as the seat of the government of Canada;

That citizens have the right in the national capital to have access to the services provided by all institutions of the government of Canada in the official language of their choice, namely English or French;

That the capital of Canada has a duty to reflect the linguistic duality at the heart of our collective identity and characteristic of the very nature of our country.

Therefore, your petitioners ask Parliament to confirm in the Constitution of Canada that Ottawa, the capital of Canada — the only one mentioned in the Constitution — be declared officially bilingual, pursuant to section 16 of the Constitution Act, from 1867 to 1982.

[English]

QUESTION PERIOD

NATIONAL DEFENCE

STRATEGIC CAPABILITY INVESTMENT PLAN

Hon. Michael A. Meighen: Honourable senators, last week I stood in the chamber and was happy to quote from the Prime Minister. In the quote, Mr. Martin stated as follows:

Properly equipping the Forces has been very much the focus of our government.

Earlier this week, we learned that a DND plan for re-equipping the Canadian Forces had been sitting on the desk of the Minister of Defence for some 64 days with no action. In his defence, the minister stated that the document does not need his signature. If the document does not need his signature, what does it need to get it off the minister's desk and get much needed equipment into the hands of our military? An election, perhaps?

Hon. Jack Austin (Leader of the Government): Would Honourable Senator Meighen suggest that as a course of action?

Senator Meighen: I certainly would, but I would prefer that the minister act upon it before the election is called.

I think that is all I will get out of the leader. This government is known for not answering questions put during Question Period, but I will continue with a supplementary.

Some Hon. Senators: Oh, oh!

Senator Austin: That is unfair.

Senator Meighen: That is why it is not called Answer Period.

The minister has called this document an internal planning document that continues to evolve. This government is forever making plans and developing frameworks. It even makes plans to make plans, which about sums up its new national security policy. When will the government put some meat on the bones of these plans? In other words, can the Leader of the Government give the members of this chamber some idea of when or whether the Department of National Defence will be given the go-ahead to move on the equipment needs outlined in the Strategic Capability Investment Plan, otherwise known as SCIP, or is SCIP more than an acronym in this particular case?

Senator Austin: Honourable senators, the government has announced a substantial procurement program for the Canadian military, probably the most ambitious procurement program announced by a government in several years. I know that Senator Meighen is aware of the outlines of that program. They include a new search and rescue aircraft capability, a mobile gun system, the Maritime Helicopter Project and support ships. These capital equipment requirements have long lead times for a government that is planning ahead, in an appropriate way, to purchase the equipment and ensure that it is the finest we can obtain for the military.

• (1400)

I do not need to take senators into any details, but I will highlight some of the categories. Canada's two protector class ships, Preserver and Protector, were built in the 1960s and are approaching the end of their service lives. They must be replaced.

Regarding new fixed-wing search and rescue aircraft and also with respect to SCIP, the Strategic Capability Investment Plan, a comprehensive internal planning document lays out the future capital equipment priorities and sets timelines with respect to the acquisition of these capabilities.

The SCIP approval was given last fall by the Chief of the Defence Staff and the deputy minister. That document is in the public domain, as Senator Meighen knows, and the government has already acted on elements of that plan.

The mobile gun system will give the army a modern, highly deployable system. Senator Forrestall has referred to that particular aspect.

The Maritime Helicopter Project is one that the government has confirmed and acknowledges must be moved on expeditiously.

Honourable senators, I believe the government has been unfairly accused of not acting on the purchase of military equipment or in not providing to the public the information on the actions it proposes to take.

PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

CANADIAN SECURITY INTELLIGENCE SERVICE— INTEGRATED NATIONAL SECURITY ASSESSMENT CENTRE

Hon. J. Michael Forrestall: Honourable senators, perhaps I associate with Senator Kenny too often, but in my best non-partisan manner, may I leave the subject that Senator Meighen has raised because we all wonder and pray: Was not the lead time on the Sea King project sufficient?

I want to return to a subject I opened yesterday, namely, the new national security policy. I will be non-partisan. I love to be very pure in this regard. I could be very pure if there was something tangible to support. However, I am still a little vague as to what is happening.

The Auditor General's report in March pointed out that in 2003 CSIS established the Integrated National Security Assessment Centre. Ten organizations were invited to participate in an active way in that program. Of the 10 invited, only four took up the invitation. It is probably up to six now, with four having declined any interest in participating.

Could the Leader of the Government in the Senate give us an indication as to the degree of buy-in with respect to the latest proposal from CSIS? Have all those invited to participate in the threat assessment centre agreed to do so, or is the situation somewhat similar to that of the Integrated National Security Assessment Centre?

Hon. Jack Austin (Leader of the Government): Honourable senators, Senator Forrestall is very good at asking questions for which I do not have an immediate opportunity to reply, so I will take the question as notice and endeavour to give him a response soon.

I wonder whether the honourable senator saw the press release yesterday of the Conference of Defence Associations, the heading of which reads, "Conference of Defence Associations Applauds Tabling of Canada's First National Security Policy."

Senator Forrestall: Honourable senators, I have not seen it, but I will read it later this afternoon. I might say that we all join with the government's initiative.

What is troubling us, of course, is that we have no explanations. There is nothing solid to put our teeth into to say, "That is a hell of a good idea," or "Where will that take us?" I appreciate my honourable friend not having an answer at hand. However, when he looks into the matter or his staff provides him with some research, could he explain the difference between the two centres, how they fit with CSIS and how are they expected to cooperate? Will they be one and the same or will they have different tasks? How will they serve government and, through government, the people of Canada?

Senator Austin: Honourable senators, I now have a clearer idea of the question, and I will do my best to provide an answer. I think that an understanding of that functionality is important.

NATIONAL DEFENCE

SHANNON, QUEBEC—SETTLEMENT IN CONTAMINATION OF DRINKING WATER

Hon. Donald H. Oliver: Honourable senators, my question is for the Leader of the Government in the Senate. It relates to a recent agreement that Canada's defence department reached with the Quebec town of Shannon to give \$19 million to the town to provide clean water for its residents.

Shannon's water supply was contaminated with something called TCE, a solvent that had been used to clean munitions in a military base adjacent to Shannon. TCE causes cancer and other conditions such as headaches, nausea, dizziness, clumsiness, drowsiness, damage to facial nerves and skin rash.

In making the settlement with the town of Shannon, Minister of Defence Pratt stated that the government is "committed to sound environmental stewardship in areas in which it operates." However, when Minister Pratt made the announcement, he refused to admit that the defence department was responsible for the TCE contamination.

Could the Leader of the Government in the Senate please provide some background as to why Minister Pratt would not admit that the defence department was in fact responsible for this contamination, particularly when it provided \$19 million to provide clean water?

Hon. Jack Austin (Leader of the Government): Honourable senators, I will ask for further information, but as Senator Oliver is an eminent Queen's Counsel, he probably can appreciate that my instinctive answer is: Because the Department of Justice said that is how we should do it.

THE ENVIRONMENT

NATIONAL DRINKING WATER STANDARDS

Hon. Donald H. Oliver: The timing of the Shannon settlement is interesting in that it comes also three years to the day that Canada's House of Commons passed a motion calling for national drinking water standards in the form of a safe water act. On May 8, 2001, a majority of the House of Commons voted in favour of a motion stating:

That, in the opinion of this House, the government should act with the provinces and territories to establish enforceable national drinking water standards that would be enshrined in a Safe Water Act.

Could the Leader of the Government in the Senate tell us how committed this government is to realizing the goal of national drinking water standards in the form of a safe water act?

Hon. Jack Austin (Leader of the Government): Honourable senators, I can advise the chamber that this is a priority of the government. As Senator Oliver knows, it involves a cooperative arrangement with the provinces and, in turn, by the provinces with the municipalities.

We do have serious water problems in parts of Canada. The problems I am referring to are, of course, safe drinking water — potable water, in other words — for our citizens. The issue is being addressed.

Although he is not here, I want to acknowledge the high interest of Senator Grafstein in proposing draft legislation in this area.

• (1410)

TRANSPORT

AIR CANADA— FINANCIAL PROBLEMS— GOVERNMENT INVOLVEMENT

Hon. Terry Stratton: Honourable senators, my question is for the Leader of the Government in the Senate. It relates to the restructuring deal that Air Canada is ironing out with Deutsche Bank AG. Under the deal, the German bank has agreed to underwrite an \$850-million rights offering to Air Canada creditors.

The offer apparently depends on Ottawa ensuring that the same rules that govern Air Canada apply to its low-cost competitors, WestJet and Jetsgo, Air Canada lawyer Shawn Dunphy said on Tuesday.

Air Canada is governed by at least three sets of rules that its competitors do not face. Firstly, it must operate in both official languages. Second, Air Canada is governed by special competition rules because of its dominant market position. Finally, foreign owners are limited as to how much Air Canada stock they can buy.

Does the Leader of the Government in the Senate have any additional information on precisely which of these three rules Air Canada wants to have applied to its low-cost competitors? Is it some or all of these three rules that Air Canada wants to see standardized?

Hon. Jack Austin (Leader of the Government): Honourable senators, my information is that Air Canada has not formally approached the Government of Canada for any regulatory or legislative changes at this time. Therefore, I am not in a position to tell the honourable senator what the government policy will be when it does so.

Senator Stratton: Honourable senators, an article about Air Canada appeared in the business section of Tuesday's *The Globe and Mail*. The article explained that there is an apparent split in cabinet over whether the government should resort to special measures to help Air Canada. There are two schools of thought in cabinet according to the article. For instance, Finance Minister Ralph Goodale and others apparently want to take a more laissez-faire approach and let the market iron out the problems in this industry. Others, led apparently by Pierre Pettigrew, want to see a more interventionist approach, including a concerted effort by the government to ease the financial load for all airlines.

When will we get some clarity from this government on how it will proceed on problems facing Canada's airlines and specifically Air Canada?

Senator Austin: Honourable senators, insofar as the Air Canada issue concerns the government, I suppose the general answer would be that all options are open. However, at this particular moment, the government is waiting for the negotiations between Air Canada and its unions to resolve the underfunded pension problem and the financial-loading costs that that pension plan has placed on Air Canada. As Senator Stratton knows, it is critical to Air Canada's future competitiveness that it put its financial house in order.

The potential investors in Air Canada have all set criteria with respect to the debt load and obligations that Air Canada is able to carry in terms of any new financing that may be made available. The pivotal issue remains the restructuring of the debt structure of Air Canada.

[Translation]

OFFICIAL LANGUAGES

POLICY OF AIR CANADA

Hon. Jean-Robert Gauthier: Honourable senators, my question is for the Leader of the Government in the Senate and has to do with Air Canada.

On Monday, we learned that Deutsche Bank would come to the rescue of Air Canada, provided that the company is subject to the same competition rules as other air carriers. As we know, Air Canada has some legal obligations. The Official Languages Act applies to Air Canada, but not to other airlines.

Could the Leader of the Government in the Senate tell us if he has the assurances of his colleagues, Mr. Valeri, the Minister of Transport, and Mr. Pettigrew, the Minister responsible for Official Languages, that Air Canada will continue to be bound by the Official Languages Act? Will the company's head office remain in Montreal?

[English]

Hon. Jack Austin (Leader of the Government): Honourable senators, I shall make those representations to the minister.

FOREIGN AFFAIRS

SUDAN—UNITED NATIONS HUMAN RIGHTS COMMISSION REPORT ON CIVIL WAR

Hon. A. Raynell Andreychuk: Honourable senators, there has been considerable and horrific information coming out about Sudan. Amnesty International, Human Rights Watch, and a whole host of other authorities have documented the attacks against the minority in the south and the brutal acts from Khartoum. Nevertheless, the United Nations Human Rights Commission suppressed a report that would have brought this information forward and, on that basis, many countries chose not to take action against Sudan. Alone among the nations represented in Geneva, the United States did dare to speak out, making explicit again the comparison to the Rwanda genocide, a comparison previously made explicit by the former United Nations humanitarian coordinator for Sudan, Dr. Mukesh Kapila.

American Ambassador Richard Williamson declared: "Ten years from today, the only thing that will be remembered about the 60th annual Human Rights Commission is where we stand up on the ethnic cleansing going on in Sudan. This massive failure on the part of the United Nations Human Rights Commission, in light of so many current and previous failures, sounds the death knell for what should be one the greatest forums for addressing human rights abuses."

Can the Leader of the Government in the Senate indicate what action the Government of Canada is contemplating to start addressing the issue in Sudan? It is horrific. It cannot go unaddressed. It is not on the radar screen because of so many other issues — Iran, Iraq, Afghanistan. We cannot forget Africa and Sudan. The measures that the Canadian government has taken are not sufficient. We have to be more assertive. I am getting e-mails from Canadians working in Sudan appealing to Canada to join forces with the United States to put more pressure on the Sudan government.

Will the Leader of the Government convey to the Prime Minister that this is an urgency that cannot wait?

Hon. Jack Austin (Leader of the Government): Honourable senators, I shall draw the attention of the Prime Minister and the Minister of Foreign Affairs to these issues.

The honourable senator indirectly raises an interesting question with respect to the United Nations Human Rights Commission. I thought the honourable senator might suggest that it should be abolished, but she did not quite say that. I would be interested in her views.

In addition, as honourable senators know, Senator Jaffer has been appointed a special representative of the Government of Canada with respect to the situation in Sudan. I would be very happy to invite her to make a statement to the chamber on this subject.

Senator Andreychuk: Honourable senators, I am aware of what Senator Jaffer is doing in Sudan. However, it will take high-level

involvement by the Prime Minister and the Minister of Foreign Affairs to bring some spotlight to this disaster. Ongoing things are helpful, but this is a crisis that demands the top leadership or nothing will happen.

As to the United Nations Human Rights Commission, I would invite the government to start considering how to change the United Nations Human Rights Commission. More than 10 years ago, I was involved with it. I signalled at that time that, when human rights were not being addressed by the United Nations elsewhere, particularly the Security Council, the methodology employed in the Human Rights Commission was adequate. We are stalled there. We have not changed. It is not doing the job that it can do or should do. It is time the Canadian government addressed this concern.

• (1420)

Senator Austin: Honourable senators, I thank Senator Andreychuk for her comments, which I shall also convey. I mentioned Senator Jaffer specifically to illustrate that the Government of Canada has taken action to understand the developments in Sudan. Senator Jaffer was appointed to assist in ameliorating conflict in Sudan, and she continues in that role.

APPOINTMENT OF PARLIAMENTARIANS AS SPECIAL ENVOYS

Hon. Marcel Prud'homme: Honourable senators, I wish to add the name of someone who has highlighted the role that senators can play. We all remember that our colleague Senator Wilson was in charge of similar responsibilities.

In the future, perhaps the government could look around the Senate and choose senators, regardless of political affiliation, to be special envoys. A senator could be given similar responsibilities, as is the case for Senator Jaffer and as Senator Wilson has done, among others.

My suggestion for the reform of the Senate is similar to what takes place in France, where the President of France chooses someone who reports directly to him. He is called the *chargé de mission*. This is a good suggestion. I would ask the leader to convey to the government that this is the wish of many senators. I am not referring to myself, but I know I could be useful in some places.

I am told that in Mexico last week Senator Carstairs did an unbelievably good job as rapporteur for discussion on a most difficult situation in the Middle East. She found the right wording, with some assistance in the back room, so that we did not need to vote. That is quite unique. I would appreciate it if the government leader could convey this suggestion to the appropriate authorities.

Hon. Jack Austin (Leader of the Government): I thank Senator Prud'homme for his question because it allows me to develop the theme. Senators are actively involved in parliamentary diplomacy, and the honourable senator has been one of the leaders in that movement. We are now engaged with legislators in many other countries in discussion of social, economic and political issues.

I am delighted to hear Senator Prud'homme's reference to Senator Carstairs and the work done at the IPU meeting in Mexico. I believe that senators who travel to these interparliamentary meetings represent Canada extremely well.

With respect to the reference to Senator Lois Wilson, from time to time the Government of Canada has asked and will continue to ask senators, where their expertise applies in a specific way, to assist in both the communication and development of agreements.

I hope I am not leaving anyone out. I refer as well to Senator De Bané's very important work with respect to hostages earlier in his career and other matters in the Middle East. Senator Grafstein has had similar appointments, as has Senator Prud'homme.

Honourable senators, these are very important roles. I might also add, in a general way, as all of us have seen, that the Government of Canada has now established and just announced a secretariat within the Canadian Embassy in Washington, but independent of its operations, to facilitate interaction not only between parliamentarians here in Ottawa but also legislators and others in provincial governments, as well as members of the Congress of the United States. It has appointed a minister, a rank just below that of ambassador, to take charge. I am referring to the appointment of Colin Robertson, a professional diplomat who was in the process of retiring, as our Consul General in Los Angeles.

[Translation]

THE SENATE

DEPARTURE OF PAGES

The Hon. the Speaker *pro tempore*: Honourable senators, I have the honour of introducing to you three other pages who are finishing their contract with the Senate.

[English]

Lindsay Mossman is from Winnipeg, Manitoba, and is studying political science at Carleton University. She will be accepting a position as Vice-President of Student Issues for the Carleton University Students' Association in May.

Hon. Senators: Hear, hear!

The Hon. the Speaker *pro tempore*: Andrea McCaffrey is from Brownsburg, Quebec. She will be completing her degree in Canadian politics in September. With the intention of eventually becoming a table clerk in the Senate, she is busy seeking further employment in the Senate. Andrea will also be busy planning her wedding, which will take place in June 2005.

Hon. Senators: Hear, hear!

[Translation]

Davy Coyle is from Winchester Springs, Ontario. He is completing his third year in political science and philosophy at the University of Ottawa, his second year as a page in the Senate, and his first year as assistant senior page. We are told that we may have the pleasure of seeing him again on Parliament Hill this fall.

[English]

DELAYED ANSWER TO ORAL QUESTION

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour of tabling a response to an oral question raised in the Senate on March 24, 2004, by Senator Oliver, regarding employment insurance premiums.

FINANCE

THE BUDGET—SETTING OF EMPLOYMENT INSURANCE PREMIUMS

(Response to question raised by Hon. Donald H. Oliver on March 24, 2004)

When the EI premium rate for 2004 was set at \$1.98 in Budget 2003, it was estimated that, based on the private sector economic forecasts used in the budget and the proposed changes to the program to create a compassionate care benefit, this rate would generate premium revenues equal to projected program costs for 2004.

The *Outlook for the EI Account in 2004* document, prepared by the EI Chief Actuary in October 2003, indicated that the premium rate of \$1.98 would come very close to matching estimated premium revenues with projected program costs, i.e., benefits and administration. It showed estimated premium revenue of \$17.26 billion and projected program costs of \$16.99 billion. The annual surplus referred to in the question is almost entirely the result of forecast interest of \$1.27 billion on the EI cumulative surplus.

As Budget 2004 noted, for planning purposes, the Government is assuming a rate of \$1.98 for 2005, which is the rate expected to generate revenues sufficient to cover expected program costs in that year, using the economic assumptions of the budget, which are based on private sector economic forecasts.

ORDERS OF THE DAY

PUBLIC SAFETY BILL 2002

THIRD READING— MOTION TO DISPOSE OF BILL C-7 ADOPTED

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I move:

That, pursuant to rule 38, in relation to Bill C-7, to amend certain Acts of Canada, and to enact measures for implementing the Biological and Toxin Weapons Convention, in order to enhance public safety, no later than 5:00 p.m. Tuesday, May 4, 2004, any proceedings

before the Senate shall be interrupted and all questions necessary to dispose of third reading stage of the bill shall be put forthwith without further debate or amendment, and that any votes on any of those questions be not further deferred; and

That if a standing vote is requested, the bells to call in the Senators be sounded for thirty minutes, so that the vote takes place at 5:30 p.m.

There have been discussions across the aisle on the matter, and we felt that this was the best way to proceed. Once this motion is passed, I would proceed to withdraw the time allocation motion that I set down previously.

Hon. Terry Stratton: Honourable senators, in response to Senator Rompkey's statement regarding Bill C-7, there is an agreement that we will complete our speeches and any amendments on Tuesday so that a standing vote, should there be one, can take place at 5:30 p.m. that day. The agreement is that there will be no speeches today because that would then cause a procedural problem.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

• (1430)

PUBLIC SAFETY BILL 2002

MOTION WITHDRAWN

Leave having been given to proceed to Motion No. 1.

On the Order:

That, pursuant to rule 39, not more than a further six hours of debate be allocated for the consideration of the third reading stage of Bill C-7, to amend certain Acts of Canada, and to enact measures for implementing the Biological and Toxin Weapons Convention, in order to enhance public safety;

That when debate comes to an end or when the time provided for the debate has expired, the Speaker shall interrupt, if required, any proceedings then before the Senate and put forthwith and successively every question necessary to dispose of the third reading stage of the said bill; and

That any recorded vote or votes on the said question shall be taken in accordance with rule 39(4).

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I ask for leave to withdraw this motion.

The Hon. the Speaker pro tempore: Honourable senators, is leave granted?

Hon. Senators: Agreed.

Motion withdrawn.

VISITOR IN THE GALLERY

The Hon. the Speaker pro tempore: Honourable senators, I draw your attention to the presence in our gallery of Chief Robert Louie, LL.B., of Kitimat, B.C who is the Chief of the Westbank First Nations and the guest of the Honourable Senator Fitzpatrick. On behalf of all honourable senators, I welcome you to the Senate of Canada.

Hon. Senators: Hear, hear!

PUBLIC SAFETY BILL, 2002

THIRD READING—MOTION IN AMENDMENT—
TIMING OF VOTE

On the Order:

Resuming debate on the motion of the Honourable Senator Day, seconded by the Honourable Senator Léger, for the third reading of Bill C-7, to amend certain Acts of Canada, and to enact measures for implementing the Biological and Toxin Weapons Convention, in order to enhance public safety,

On the motion in amendment of the Honourable Senator Nolin, seconded by the Honourable Senator Lynch-Staunton, that the bill be not now read a third time but that it be amended, on page 103, by adding after line 26 the following:

"Review and Report

111.2 (1) Within three years after this Act receives royal assent, a comprehensive review of the provisions and operation of this Act shall be undertaken by such committee of the Senate, of the House of Commons or of both Houses of Parliament as may be designated or established by the Senate or the House of Commons, or by both Houses of Parliament, as the case may be, for that purpose.

(2) The committee referred to in subsection (1) shall, within a year after a review is undertaken pursuant to that subsection or within such further time as may be authorized by the Senate, the House of Commons or both Houses of Parliament, as the case may be, submit a report on the review to Parliament, including a statement of any changes that the committee recommends."

The Hon. the Speaker pro tempore: Honourable senators, the vote on the amendment will be dealt with at 5:30 p.m. later today.

WESTBANK FIRST NATION SELF-GOVERNMENT BILL

SECOND READING

Hon. Ross Fitzpatrick moved second reading of Bill C-11, to give effect to the Westbank First Nation Self-Government Agreement.

He said: Honourable senators, I rise today to speak to Bill C-11, and to encourage you to support this important bill.

Bill C-11 provides for the implementation of legislation for a long-awaited self-government agreement for the Westbank First Nation whose reserve lands and traditional territory lies on both sides of Kelowna and the Okanagan Lake in the beautiful Okanagan Valley in my home province of British Columbia.

At the outset, let me compliment the members of the Westbank First Nation on achieving this self-government agreement, which is a remarkable milestone in their long history, and to congratulate the government for proceeding to implement the required legislation.

I would thank John Duncan, the member for Vancouver Island North, an opposition critic for Aboriginal affairs in the other place, for his thorough analysis of the agreement and legislation, which has been very helpful to me in my preparation to sponsor this important bill.

I should also like to compliment Stockwell Day, the member for Okanagan-Coquihalla for his constructive approach and support of this bill.

Without being presumptuous or, of course, speaking on his behalf, I should like in advance to extend my appreciation to Senator St. Germain, who will be speaking to this bill later this afternoon, and for his valuable input and accommodation.

If I may, honourable senators, I would like to say I believe I have a very special honour to fulfil here today, having been born in Kelowna, growing up in the Okanagan Valley, and now living directly across the lake from the Westbank First Nation. To be part of this historic journey of the Westbank First Nation, a member of the proud Okanagan Nation, is indeed a cherished experience for me. I want to say to Chief Robert Louie and his council who are here in the gallery today, you are true and courageous pathfinders for your nation. I am sure the chief would join me in also complimenting his immediate predecessors, Chief Ron Derrickson and Chief Brian Eli and their councils for carrying the torch during their terms in office to reach this destination that Chief Robert Louie began in his first term of office over 14 years ago. It is fitting, and I am sure very satisfying, for Chief Louie to be here today with his council to witness this historic event.

Honourable senators, the process followed by the Westbank First Nation is, in itself, a model of democracy; from the self-government task force committee, to the community working group that developed the constitution, to the Elders whose wise guidance was sought, to the youth who participated in presenting their ideas for the future of their community. All are to be congratulated.

Honourable senators, the Westbank First Nation has a well-earned reputation as one of the most progressive Indian bands in the country and its self-government agreement is the first stand-alone, self-government agreement ever negotiated under the federal government's Inherent Right Policy to be presented to

Parliament. Implementation of this agreement will modify the relationship between Canada and Westbank First Nation, whereby Westbank First Nation will assume increased responsibilities and develop governance structures outside of the Indian Act, governance structures that will reflect the needs and aspirations of Westbank First Nation.

The self-government agreement reflects Canada's legal structure and is within the Canadian constitutional framework. The Charter of Rights and Freedoms will apply to all decisions and actions of the Westbank First Nation government. This means the Charter rights of non-band members on Westbank lands are unaffected, whether Westbank First Nation operates under the Indian Act or under Bill C-11.

Further, section 221 of the agreement provides that the Canadian Human Rights Act will operate without limitation with respect to Westbank First Nation government and lands.

Westbank First Nation will establish a government primarily accountable to its members. Decisions will be made locally by the Westbank First Nation government, not in Ottawa by the Minister of Indian Affairs and Northern Development. Westbank First Nation will have better tools of governance to promote social and economic development for the benefit of all those who live on Westbank First Nation lands.

As Chief Robert Louie has articulated so well, the self-government agreement will provide Westbank First Nation with "the tools of government that most people take for granted, unless you live on an Indian reserve under the Indian Act."

Concerns have been raised that Westbank band laws will take precedence over provincial and federal legislation. Under the self-government agreement, Westbank band laws will prevail over only some federal laws. To be specific, band officials will be able to address social issues on the reserve; they will have priority when it comes to Okanagan language and culture, kindergarten to Grade 12 education, the practice of traditional medicine, enforcement procedures, business licensing, traffic and transportation, public works, and wills and estates. I believe these are matters that should be dealt with by the First Nation government locally and not by bureaucrats in Ottawa.

• (1440)

The Westbank First Nation Self-Government Agreement also creates a government that can sue or be sued in contrast to the Indian Act that shields band chiefs and councils from legal liability. This provides for both transparency and accountability. The self-government agreement requires the Westbank First Nation to establish a constitution providing for democratic and legitimate elections and government, an appeal mechanism, internal financial management and accountability, conflict of interest rules for officials, clear procedures for the passage and amendment of Westbank First Nation laws, and public notification of these laws.

The Westbank First Nation standards of financial accountability are required to be at least comparable to those of other public governments providing similar public services.

It is important to note that the Westbank First Nation has been collecting property taxes since 1990. Non-band members are given full access to the financial reporting of these property tax accounts. There is also a system of independent property assessment and appeal mechanisms similar to off-reserve municipalities and managed by the British Columbia Assessment Authority.

The implementation of this taxation policy in 1990, under section 83 of the Indian Act, and the subsequent opting in to the First Nations Land Management Act were important steps in the rapid growth of non-band members on band land. This property tax regime will not change with the passage of Bill C-11.

In an important step toward self-government and in collaboration with a group of dedicated community members, Westbank First Nations developed a constitution, which was ratified by Westbank First Nations in May 2003 at the same time and in the same manner as the self-government agreement. Upon the effective date of the self-government agreement, the constitution will become a law of Westbank First Nation. Implementation of the Westbank First Nation Constitution will result in clearer decision-making processes, which will increase confidence in Westbank First Nations governance structures. In providing the structures for increased political and financial accountability, the self-government agreement and the Westbank First Nation constitution will, in turn, foster economic growth in the community.

In addition to the Westbank First Nation constitution, a significant element of the self-government agreement is section 54 that requires Westbank First Nation to formally establish in Westbank First Nation law a mechanism through which non-members residing on or having an interest in Westbank lands may have input into the Westbank First Nation laws that directly affect them.

This requirement was made voluntarily by the Westbank First Nation and represents a significant improvement for non-members residing on Westbank lands, as there is no such requirement under the Indian Act or under any other federal legislation. This law respecting the non-member input mechanism must be in place within 30 days of the self-government agreement coming into force and before any new Westbank First Nation law under self-government may be passed. The self-government agreement stipulates that this law may not be amended without the consent of the non-members.

In 1999, Westbank First Nation established an interim advisory council to represent the interests of non-members residing on Westbank lands. This council has been functioning since that time and is currently involved with the Westbank First Nation council in the development of the Westbank First Nation law to formally establish a non-member input mechanism.

The Westbank First Nation bylaw creating formal non-member representation will provide for an elected advisory council to serve for a three-year term. For the purpose of the election, the reserves will be divided into five neighbourhood constituencies, each having one elected representative. Among its duties, the advisory

council shall be responsible for planning the servicing program for the Westbank First Nation lands, estimating the costs of the servicing program, recommending implementation of a servicing program, including the proposed financing for it to the chief and council, and receiving and considering petitions relating to the provision of service on the Westbank First Nation lands.

Honourable senators, the movement toward self-government was conducted with transparency and comes as no surprise to those who live on Westbank First Nation lands or in the surrounding municipalities. Currently, about 8,000 non-band members live on Westbank land, representing about 25 per cent of the non-member residents living on Canadian reserves. These residents, along with 200 businesses, chose to locate there because they consider the Westbank government to be competent, predictable and stable. The area is seen as a safe place for investment and is situated in the heart of the Okanagan region, which is concentrating on green, sustainable economic development, and the Westbank First Nation is participating in the Okanagan Partnership for economic opportunities.

A recent poll of non-member residents commissioned by the Westbank First Nation and conducted by CGT Research International of Vancouver, British Columbia, found that 92 per cent of those surveyed were aware of Westbank First Nation's move toward self-government, and 65 per cent were aware of the existence of the Interim Advisory Council established to represent their interests.

Since negotiations began in 1989, Canada and Westbank First Nation participated together and separately in numerous consultation meetings. There have been open houses, community forums, meetings with the provincial government, regional treaty advisory bodies, local governments, chambers of commerce, businesses, and there have been numerous media interviews. Honourable senators, I have attended some of these consultation meetings and I have witnessed the thorough, cooperative process undertaken by the band council.

Following its signing in 1998, 7,000 copies of the agreement in principle were distributed in the Okanagan Valley. Throughout the negotiation process, Westbank First Nation worked hard to develop a good working relationship with the surrounding municipalities based upon collaboration and mutual respect. Westbank First Nation has signed statements of political relationship with both the City of Kelowna and the Central Okanagan Regional District. Representatives from both the City of Kelowna and the Central Okanagan Regional District have spoken in favour of the self-government agreement.

The Westbank First Nation kept local governments aware of the progress of the self-government negotiations throughout the entire process, and worked to find creative ways to bring together the interests of Westbank First Nation and local governments.

In this regard, the self-government agreement will not only work to improve the quality of governance on Westbank First Nation land, but also it will contribute to a strengthened relationship between Westbank First Nation and the surrounding municipalities.

While speaking of the good relations between Westbank First Nation and the surrounding municipalities, I should like to address some of the concerns that have recently been raised with respect to section 102 of the agreement regarding the federal government's additions to reserve policy. Honourable senators, upon implementation of the agreement, nothing will change in that regard. At present, Westbank First Nation, like all other First Nations in Canada, can act under this policy. In fact, and Westbank First Nation accessed the additions to reserve policy in the past to add what are known as the Gallagher Canyon lands to its reserve lands on the east side of Okanagan Lake.

Westbank's experience with the Gallagher Canyon addition to its reserve is a clear indication of the cooperation between the First Nation and the surrounding communities. The addition of the Gallagher Canyon lands in 2000 came as a result of extensive consultation between Westbank First Nation and the local area authorities, including the City of Kelowna, the Central Okanagan Regional District, the Southeast Kelowna Irrigation District and the Black Mountain Irrigation District. These consultations led to a master agreement among these parties, addressing such local government interests as land use, municipal services, access to water and rights of way. Westbank First Nation clearly demonstrated the importance of its relationship with local authorities in the addition of the Gallagher Canyon lands to its reserves, which ensured that the surrounding communities also benefited, including providing a public park.

• (1450)

I am convinced that in implementing the self-government agreement Westbank First Nation will continue to demonstrate this cooperative approach to its relationship with surrounding communities. Westbank First Nation is, and I strongly believe will continue to be, a fundamental and very important member of the Okanagan community.

Honourable senators, it is absolutely essential that we facilitate First Nations to build their capacity so that they and the members of their communities can participate fully in the economic and social structures of Canada. It is also imperative that we work in a collaborative manner to develop and implement solutions that respect the principles of accountability, transparency and good governance, and that respond to the particular needs and aspirations of individual First Nation communities.

The Westbank First Nation Self-government Agreement achieves this. It improves accountability and transparency of the Westbank First Nation government to its members; it implements an input mechanism for non-members, enabling them to more fully participate in and influence decisions that affect them; and it vests decision-making power locally, enabling the Westbank First Nation to develop and improve its political and economic relationships with surrounding local governments under terms suitable to the local environment.

I believe this self-government agreement will be regarded as a model of self-government and economic development for the First Nations of Canada to build on. It is for all of these reasons that I support the Westbank self-government agreement's implementing

legislation, Bill C-11 and I encourage all senators to support this legislation, as it is not only important for the Westbank First Nation. By adopting the self-government agreement, I believe that the Westbank First Nation will become a true pathfinder for all First Nations in Canada to find their way toward good governance and capacity building.

Wai Lim Lim, Kulen Chuten. Thank you, and God speed.

Hon. Gerry St. Germain: Honourable senators, it is hard to follow an act like that. My colleague from British Columbia has put forward an excellent presentation on a very important piece of legislation. As I look at Senator Fitzpatrick, Senator Lawson and Senator Austin, I am reminded that these are the issues I like to tackle, where government can benefit a group in our society that it has often failed to deal with properly.

I think back to 1985 and Prime Minister Brian Mulroney. I was his caucus chairman, and he said to me that he would offer all natives the right to self-government. Unfortunately, it was not to be, as what was presented was not accepted at the time. However, failing that, we are moving ahead. There has been progress with the Sechelt First Nation and others.

I want to thank all honourable senators and I look forward to working with Senator Fitzpatrick on this initiative. As a Metis, as a section 35 person, I am pleased to rise today to continue the debate at second reading of Bill C-11. Most everything has been said, and very succinctly. John Duncan, Stockwell Day and other MPs have put forward forceful arguments and have been forthcoming in working together on this initiative.

I must begin by giving real credit to the people of the Westbank First Nation who have been grappling with and seeking a solution to their accountability and local governance concerns for most of the last 20 years.

Bill C-11 builds upon the basic idea first implemented by the Conservative government in the 1980s, when the Sechelt Band of British Columbia implemented a style of self-government that addressed their needs and wants, legislation that responded to their Aboriginal right of self-determination. While their solution was not the answer for other Aboriginal groups, it was, in fact, the solution determined by the Sechelt people.

Honourable senators, I will speak briefly on Bill C-11, but before I make any further remarks in response to the government's speech on the bill, I want to comment briefly on self-government in general. Self-government is a concept most Aboriginal peoples in Canada consider a key foundation to building a better future for themselves. However, there are few concrete models of what self-government means in practice.

The debate about self-government really began around 1969 in response to the federal Liberal government's white paper that proposed to assimilate Aboriginal peoples into the rest of society. It was not until the 1982 Constitution when the rights of Aboriginal Canadians became entrenched — one of these rights being the right to become self-governing within the Canadian context.

Aboriginal people have always asserted that their right to self-government is inherent. There is a growing body of legal and political support for this position. An inherent right is a right founded to some degree in historical fact. In reviewing the history of our land one finds that with the arrival of the Europeans to North America, they encountered a variety of self-governing societies, which were really self-governing nations.

Historical documents, such as the Royal Proclamation of 1763, confirmed this reality, but implementing self-government must be determined through consultation and negotiation. The basic reasons for recognizing and implementing self-government are, I believe, these: Aboriginals have never, I repeat never, given up the right to govern themselves; our government institutions have not met the needs of the Aboriginal peoples; and Aboriginal aspirations may only ever be realized through their own efforts of self-determination by way of self-government.

Now I come to the balance of my comments on Bill C-11, to give effect to the Westbank First Nation Self-government Agreement. Bill C-11 is the solution the Westbank First Nation people have arrived at today. It is a result of their discussions with their stakeholders.

Honourable senators, the government sponsor of the bill has very properly described the merits of this bill, and he has done an excellent job. I will not repeat the many good things I believe this bill will bring to the people of Westbank. Rather, I make reference to what a Conservative member in the other place said about Bill C-11, and I refer to John Duncan.

The Westbank First Nation, adjacent to the City of Kelowna in the Okanagan Valley, has rightfully gained a reputation as one of the most progressive bands in the country.

The Westbank agreement creates a democratic and accountable government, provides checks and balances on power, removes the impediments of the Indian Act and provides for the strongest individual property rights for members and lease holders on reserve anywhere in Canada.

The agreement is not constitutionally protected and there is no land claim, cash or resources involved other than those on existing reserve lands.

Honourable senators, Bill C-11 is an important bill for the people of Westbank. It is their blueprint for responsibility, accountability and transparency. It is now Parliament's time to be responsible, accountable and transparent.

• (1500)

During examination by the other place, some important questions were raised. While it appears that the answers provided resolved the concerns of most members, the situation remains where there are some in the public domain who continue to have important concerns. Aboriginal and non-Aboriginal individuals are concerned about losing their protections provided under the Canadian Charter of Rights and Freedoms and the Canadian Human Rights Act. Some believe that Bill C-11 will

create a third order of government and that perhaps this is the slippery slope to creating several sovereign states within Canada and that the Constitutions will be in conflict. Others are concerned that the bill eliminates any accountability for the federal tax dollars that are transferred to the Westbank each year.

The question of having no mechanisms to ensure fairness, equity, openness and transparency at the local level has been raised. Some non-Aboriginal residents of Westbank believe that they will be prohibited from participating in a real and meaningful way in those aspects of the Westbank government that will affect them.

Some of these questions may be unresolvable to the satisfaction of all and may require further study in the future. Even the Minister of Indian Affairs and Northern Development went so far as to say or suggest that there is a growing problem of protecting the rights of Aboriginals living on reserves and that possibly their section 25 Charter rights were being used to shield abuse from outside challenges under the Charter.

The Standing Senate Committee on Aboriginal Peoples must determine whether these issues should stand in the way of Westbank effecting its plan for self-government in the near term. In the future, can their constitution, their system of government, be amended to take advantage of the answers to the unresolved questions of today?

Honourable senators, there are lingering questions that are perhaps characterized as local and specific, and there are those that are more philosophical and broader in scope. Every question has answers, honourable senators, and it is our responsibility to find the better answers. It is our responsibility to examine Bill C-11 in a timely manner so the people of Westbank can get on with the task of building their lives.

Honourable senators, the official opposition in the other place, whom some Canadians are now referring to as the government in waiting, supported Bill C-11 at third reading, but the Conservative opposition did say that the Liberal government erred by not listening to the people's wishes that there be public meetings held by the standing committee in the communities affected and that sincerely proposed improvements to the bill by non-Aboriginal and neighbouring communities not be rejected out of hand. Therefore, honourable senators, it is our duty to consider these questions, to listen to these Canadians and to provide the appropriate direction to the federal government in the interests of the people this legislation affects and in the interests of Canada.

This is important legislation for the communities of Westbank, and Canada must provide for peace, order and good government. Hence, I propose — providing there are no others who wish to speak at this time, because I want to be respectful of other senators — that Bill C-11 be sent to the Aboriginal Peoples Committee and that the committee call for all those individuals who have something relevant to say on both sides of the issue to step forward and provide their testimony.

I wish to thank Chief Louie and his support people for their openness and for their candid and sincere way of responding to questions in this place, in the other place and before our caucus. I also wish to thank, in advance, as Senator Fitzpatrick has, all of you who have worked on this. I look forward to dealing with this issue under the chairmanship of Senator Sibbeston. Senators Gill, Watt and all our Aboriginal peoples, it is hoped, will participate in working toward something positive and, if there are any risks at all, taking whatever slight risks there may be in dealing with the plight of our Aboriginal peoples.

These people are the epitome of success in the way they have built their nation. Let us give them a chance to get out from under that vicious Indian Act, because I think it is detrimental to the well-being of our Indian nations and all our Aboriginal peoples.

Hon. Anne C. Cools: Honourable senators, I was listening with some care to what Senator Fitzpatrick had to say. Knowing that the Westbank peoples are upstairs, including their chief, I wanted to rise and thank Senator Fitzpatrick in a very profound way for his words and for his work with the Westbank First Nation. I was very struck when Senator Fitzpatrick was speaking by his great sensitivity on the issue, and I was also deeply moved by his sense of caring, which became very manifest as he was speaking.

I do not know enough about First Nations questions, and I keep wanting to find more time to study them. However, I am one of the many millions of Canadians who is desirous of seeing the First Nations situation be put right. I am hoping that this bill will go some way to putting things right for the Westbank First Nation.

Senator Fitzpatrick is from British Columbia and obviously well acquainted with these peoples. I thank him, and I thank them. I am a royalist, and when we have a First Nations chief in our gallery observing, that to me is akin to having a king, and some of these people should be treated as what they are, which is very significant and important people in those communities. I wanted to put those few words on the record, and I hope and pray that this bill will go a long way to putting these matters right.

I also thank Senator St. Germain and the First Nations peoples for coming today, because honourable senators, there is a great feeling among millions of Canadians that our situations with these peoples must be put right.

Hon. Edward M. Lawson: Honourable senators, I want to identify with the remarks of Senator St. Germain and his offering of support for this bill. In addition to being my golf partner, he is also my consultant on Aboriginal affairs because he has greater knowledge and experience in those matters, and so I respect his judgment.

I particularly want to acknowledge the outstanding work by Senator Fitzpatrick. He has shown tremendous leadership and hard work on this issue and his relationship with the Westbank First Nation. He has lobbied all of us for support on this, and we are quick to give it to him. He is very modest. He would simply

say, "I was just looking after the people in my area." Well, he does that, but he does it better than most. In that area, he does outstanding work. We are proud to support Senator Fitzpatrick in this position because he has done a fine, fine job.

Hon. Senators: Hear, hear!

The Hon. the Speaker pro tempore: Are honourable senators ready for the question?

Hon. Senators: Question!

The Hon. the Speaker pro tempore: It was moved by Honourable Senator Fitzpatrick, seconded by the Honourable Senator Bacon, that this bill be read the second time.

Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker pro tempore: Honourable senators, when shall this bill be read the third time?

On motion of Senator Fitzpatrick, bill referred to the Standing Senate Committee on Aboriginal Peoples.

• (1510)

[Translation]

RULES, PROCEDURE AND THE RIGHTS OF PARLIAMENT

MOTION TO AUTHORIZE COMMITTEE TO STUDY PRIVATE MEMBERS' BUSINESS—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Carstairs, P.C., seconded by the Honourable Senator Poy:

That the Standing Committee on Rules, Procedures and the Rights of Parliament study the manner in which Private Members Business, including Bills and Motions, are dealt with in this Chamber and that the Committee report back no later than November 30, 2004.—(Honourable Senator Cools).

Hon. Fernand Robichaud: Honourable senators, if I understand correctly, we have now come to Motion No. 40, which concerns resumption of debate on the motion by the Honourable Senator Carstairs.

Honourable senators, I believe this motion to be an extremely important one meriting every consideration by honourable senators, and as promptly as possible. I therefore move that the initial question be put to a vote at this time.

[English]

Hon. Anne C. Cools: Honourable senators, I find this procedure very questionable.

The Hon. the Speaker pro tempore: I must put the motion first. It is moved by the Honourable Senator Robichaud, seconded by the Honourable Senator Rompkey, that the original question be now put.

Senator Cools: Honourable senators, I am holding that adjournment. The proper way to have proceeded was for Her Honour not to have acknowledged or recognized Senator Robichaud. The debate was standing in my name. I should have been the person who was called upon, Your Honour. I should have been called upon because when a motion stands adjourned as it does, it is under a previous order of the Senate.

Honourable senators, you could say in the past week or so that I have been a little busy and a little preoccupied. However, I am almost ready to speak to that motion and can do so at the next sitting of the Senate. There is no need to use these kinds of tactics.

We keep degrading this institution on a daily basis. I have been very busy on a number of files. I have been here every day, and I have been on my feet a lot, so it is pretty obvious that I am not delaying anything. I do not like those kinds of negative, pejorative thoughts being imputed to me, and Your Honour should not allow that sort of thing.

Senator Robichaud has shown no interest in the motion from what I can see. His sole role seems to be just to rise to block me. Senator Robichaud has not risen to speak to it.

All I am saying to Your Honour and to honourable senators is that I will speak next Tuesday, and if that is what the chamber wanted me to do, I should have been asked. I have been a little busy. Honourable senators know that I work very hard in this place; I rarely miss a sitting. Therefore, I would suggest that I be given the opportunity to speak next Tuesday.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, this is the second time in less than a week we have had an honourable senator get up and, not even bothering to speak to the item on the Order Paper, move the previous question. I find that discourteous, to say the least.

There may be frustration among certain members that some items are not moving as fast as they would like, but I would prefer that they had the courtesy first to consult whoever is "holding up the order" to find out whether that "holding up" is deliberately obstructive or whether it is based on the fact that the senator in question is not quite ready to speak. However, I gather that this was not done in the case of Senator Joyal and Senator Robichaud.

If honourable senators intend to set a pattern of expressing frustration and annoyance by getting up whenever they feel like it and saying, "I move the previous question," what would be the point of debating here?

[Senator M. Lawson]

This used to be — and I hope the past tense will not last too long — a place where proper functioning was based on understanding how one wanted orders to proceed, and if there was a deadline that the person supporting one wanted to see met, he or she would go its opponents and discuss the problem.

This was not done in the case of Senator Joyal and it obviously was not done in the case of Senator Robichaud. I object to this overly aggressive approach to orders.

Senator Cools has in effect said, “All right, I am ready to speak on Tuesday,” or I think she may have said “at the next sitting.” Surely, we can take her at her word, Senator Robichaud should drop his motion, and Senator Cools will speak next week. Should the occasion arise again where, as we approach a certain day when we are supposed to have a dissolution of Parliament, and everyone is a little antsy and wants a bill or motion expedited, may he or she have the courtesy to speak to the person in whose name it stands and say, “What are your intentions because I should like to see this done by a certain date?” That is the minimum one can do to allow this place to function a little more smoothly than it has in last few days.

Hon. Sharon Carstairs: Honourable senators, with the greatest respect to the comments of Senator Lynch-Staunton, that is exactly what I tried to do yesterday. When I stood and indicated that I had hoped to ask — it is on the record — the Honourable Senator Cools when she was going speak, unfortunately, she was not here at that time, and I indicated that I would be prepared to move the previous question.

I could not do that, as Senator Lynch-Staunton pointed out to me correctly, and therefore I asked a fellow senator to do it on my behalf, but not until we waited and gave ample time for Senator Cools to rise today. If Senator Cools had risen and not just said “stand” from her seat, but had risen and said, “I am prepared to speak to this at the next session,” Senator Robichaud would not have put down his motion.

We are quite prepared to accept Senator Cools’ word that she will speak on Tuesday, and I am sure Senator Robichaud will be quite prepared to withdraw his motion to put the question on the basis that she will speak on Tuesday.

• (1520)

[Translation]

Senator Robichaud: Honourable senators, there is nothing in the procedure to prevent Senator Cools from calling for adjournment of this motion today and then saying whatever she wanted to say on it at the next sitting. That would be entirely in order, and I have no objection to her asking for this motion to be adjourned.

[English]

Senator Cools: Honourable senators, I have already indicated that I was planning to speak and that I had every intention to speak. If one were to look at the record, one would see that I have done a fair amount of speaking this week. I have been very busy. I am waiting for Her Honour to call a certain item right now. If

Senator Carstairs did that yesterday on the floor of the chamber, I was unaware of it. You could say that I have been very busy this week. I have also done quite a few press interviews. I would have preferred it if Senator Carstairs had communicated with me directly and given me some notice or some indication of what she about to do.

I would remind Senator Carstairs that, in the past I have been most cooperative and very loyal in doing what is required and what is proper. I had no intention of delaying any matter. The motion has not even been on the Order Paper for a long time. We have been preoccupied in this chamber with the ethics bill and with Bill C-250. My position is quite clear. Had anyone spoken to me, I would have been pleased to respond.

I am sorry that I was not here yesterday when Senator Carstairs made that statement. I would appeal to you to ensure that the person, who is the subject of the remarks, is here or that he or she be notified in some form or fashion.

Honourable senators, I am not in the habit of delaying matters just for the sake of delaying them. I have some real concerns. The kinds of speeches I give need some time to prepare. I would ask honourable senators — not Senator Carstairs — to allow me to speak at the next sitting of the Senate.

Some Hon. Senators: Agreed.

[Translation]

Senator Robichaud: Honourable senators, if it will facilitate today’s debate, I would ask for leave for my motion on the original question to be withdrawn.

[English]

QUESTION OF PRIVILEGE

The Hon. the Speaker *pro tempore*: Honourable senators, is it agreed that we proceed with the question of privilege of Senator Cools at this time?

Some Hon. Senators: Agreed.

Hon. Anne C. Cools: Are you asking for agreement, Your Honour?

The Hon. the Speaker *pro tempore*: Your microphone is not on.

Senator Cools: I cannot hear what is going on. I did not hear. Did Her Honour ask for agreement that we proceed? My understanding is that, at this point in the Order Paper, I should be called upon to proceed. I did not think agreement was needed.

Honourable senators, my question of privilege will not take much time. I will refer to words that were spoken by the Speaker *pro tempore* yesterday during her ruling. In her ruling, she attributed statements to a senator who did not make those statements. In fact, what the senator said was closer to the opposite.

I take the position, honourable senators, that that mistake or that misrepresentation or that misstatement, whichever, of the senator's position is egregious and fundamental and founds a new breach of the senator's privilege. It could even be viewed as being important enough as to impugn the original ruling. However, that is not my issue. The subject matter I would raise today relates to the particular wrong or erroneous statements that were made by Her Honour.

Honourable senators, yesterday, it was stated in the ruling of the Speaker *pro tempore* at page 965 of the *Debates of the Senate* of April 28, 2004:

It is the senator's position that the *Rules of the Senate* do not provide any opportunity for any closure or guillotine motion to be moved by a private member or on a private member's bill.

Honourable senators, those words were not said. I am the senator in question, obviously. I did not make that statement. As a matter of fact, I said something remarkably opposite and different from that.

Her Honour stated, in other words, that I said a guillotine motion or a closure motion may not be moved by a private member. Honourable senators, I did not say that. As a matter of fact, I went to enormous trouble to explain very clearly that there is a difference between a guillotine motion and a closure motion called "the previous question." I was crystal clear to say that one of those motions could be moved by a private member but not the other one, and that the other was the exclusive preserve of a minister of the Crown.

Honourable senators, if you look to the debates of Tuesday, April 27, at page 933, I state:

I should like to say to honourable senators that there is no power either in the *Rules of the Senate* or in the House of Commons for a private member to move a guillotine motion.

I continue in the same paragraph:

...it is the preserve of the Crown in dealing with such matters as the financial initiatives of the Crown, a Royal Recommendation and so on. The power of private members to move a guillotine motion or time allocation motion is just not there.

Farther down page 933 it is clarified again when I say:

...a previous question can be moved by a private member but not a guillotine motion.

They are two different motions. It seems that this is not clear to the authors of this particular ruling. They say that I say something quite different and quite opposite of what I actually said. It seems to me that Her Honour should have the opportunity to clarify that. I am of the opinion that that forms a new breach of privilege. I must be very clear. I did not say what Her Honour said I said; neither did I adopt that position. I can see nothing that was said in my speech that could possibly communicate that I did.

I said that four times in my speech on Tuesday, April 27. Again, at page 934, I said:

Outside of that, there is no power within any rule of the Senate for a private member to move a guillotine motion.

I never said that no private member could move either or both of those. I said very clearly that they could move one but not the other, the previous question but not the guillotine motion. That is the opposite. Therefore, I am asking Her Honour take a look at that because I contend that that misstatement is so fundamental as to form a new breach because, on my reading of Her Honour's ruling, she based her entire ruling on her misinterpretation or her misapprehension of what I actually said. I thought that I should raise that because, if Her Honour, in her ruling, relied on erroneous statements or on a misunderstanding or misapprehension of my statement, then certainly that constitutes a breach.

• (1530)

Rulings in this place should be treated with a high degree of respect and a deference to knowledge and to the law of Parliament and to the grand tradition. Honourable senators, I did not make those statements. I do not understand why Her Honour would say that I made those statements. I do not understand how Her Honour could found a ruling on such a misunderstanding of what I said. I will not go to the trouble of repeating what I said, but I provided in my speech Tuesday substantial precedent, substantial authority in the law of Parliament and substantial evidence.

What I got back from Her Honour was some statements of her thoughts, unsupported by any precedents and by any authority, but, more important than that, not founded on what I actually said. I should like Her Honour to address those misstatements about what I said.

The Hon. the Speaker pro tempore: Thank you, Honourable Senator Cools. I shall review the transcript and, if I have made a mistake, then I will be happy to correct it. I will take this matter under advisement.

[Translation]

SOCIO-ECONOMIC IMPLICATIONS OF DECREASING POPULATION

INQUIRY—DEBATE ADJOURNED

Hon. Marie-P. Poulin rose pursuant to notice of February 23, 2004:

That she will call the attention of the Senate to the fact that the 2001 census results, published in 2003, show that the Canadian population is decreasing in many regions across Canada and that this trend has short- and long-term socio-economic implications.

She said: Honourable senators, I would like to draw your attention to an increasingly serious problem in Canada: the depopulation of our regions, that is, the widening gap between our regional communities and certain large cities.

Statistics Canada has published the 2001 census data, which not only confirm the expected exodus, but also show that Canada's situation is worse than was thought; that is, the population of the very large cities is growing and the population in other regions is shrinking. For example, according to the census, the population of Ontario increased by 6.1 per cent between 1996 and 2001, while that of the province's north decreased by 4.1 per cent.

The repercussions of this exodus on communities are, of course, enormous. The economy in such communities is threatened, as is people's quality of life, both in the very large cities and in the small communities, for different reasons.

Shortly after the publication of the census data, parliamentarians in Northern Ontario responded to an initiative by the Secretary of State for regional economic development. This initiative emphasized the growing importance of issues affecting the regions and complemented the study that had already been approved by the parliamentarians from Northern Ontario.

Honourable senators, the report entitled "Dimensions: a socio-economic analysis of Northern Ontario" was published in 2003, and I would like to take this opportunity to table it as an official document. It contains nearly 40 recommendations. I encourage everyone who is interested in the fate of the regions outside the country's major centres to read it.

Canada is a vast land with one of the lowest population densities in the world. Yet, the largest part of its population — 79.4 per cent in 2001 — lives in urban areas. This proportion, which stood at 54 per cent in 1931 and at 78 per cent in 1996, has increased significantly. There is a very definite trend and it deserves some serious consideration.

While the study on Northern Ontario provides a snapshot for a specific region, this does not necessarily mean that the situation is the same in all remote regions of the country. However, there is every indication that the situation in Northern Ontario is not the exception but, rather, a symptom of a much more serious problem.

[English]

Honourable senators, the out-migration issue is clearly one that is clearly multifaceted. First, we must identify and respond to the needs and aspirations of regions; second, we must provide a dialogue for change with the inhabitants, including the indigenous peoples and those engaged in the resource sectors; and, third, we must facilitate solutions to the infrastructure problems of the large centres.

Canada is rich with potential, both in human capacity and in the bounty of the earth. In order to fulfil that potential, we need policies that help regions outside the major centres to grow and to flourish; where families can prosper and remain united without the need for uprooting in order to make do; where businesses are not threatened with extinction solely because of their geography; where the spirit of community creates healthy, rewarding lives; where infrastructure is built up, not eroded from disuse and lack of investment; and where health care, education and social services are not undermined by distance.

The alternative to vibrant regions is depressed zones between crowded, unmanageable mega-cities. I believe that quality of life is respected when a diversity of communities can thrive outside the pressure-cooker environment of vast urban areas, which themselves create enormous problems in terms of transportation, social behaviours, overcrowding, and the ability of governments to deliver services effectively.

How can the regions survive and grow? The study I mentioned made a number of suggestions, including value-added processing and the manufacturing of goods from natural resources which are too often shipped out in their raw state for processing to major centres abroad. Well-paying jobs would be a boon to struggling communities.

Tourism development is another sector ripe for investment.

We need new immigration policies that would attract newcomers to Canada to areas outside the principal venues of Montreal, Toronto and Vancouver.

There is also the amazing potential of the Internet, which allows projects and services to be marketed far beyond the confines of a geographic location.

It is with these thoughts in mind that I submit for your consideration, honourable senators, a proposal to engage this chamber in launching its own pan-Canada study at the appropriate time that would focus on the social and economic implications of regional out-migration and the impact it has on the diverse communities across the land.

I would welcome your views and be pleased to consider ways in which we could serve the broader interests of the country by examining the growing dichotomy between rural and urban Canada.

[Translation]

Indeed, honourable senators, it is our duty as representatives of all the regions of Canada to identify the foundations of a new human, economic, social and environmental dynamic.

On motion of Senator Losier-Cool, debate adjourned.

• (1540)

RULES, PROCEDURE AND THE RIGHTS OF PARLIAMENT

MOTION TO AUTHORIZE COMMITTEE TO STUDY
REGULATIONS, PRACTICES, CUSTOMS AND
CONVENTIONS OF OTHER LEGISLATURES—
DEBATE ADJOURNED

Hon. Jean-Robert Gauthier, pursuant to notice of February 12, 2004, moved:

That the Standing Committee on Rules, Procedure and the Rights of Parliament examine the rules, practices, customs and conventions of other legislatures in order to prepare a draft of modern and democratic rules thereby following up responsibly on petitions to the Senate.

Hon. Marcel Prud'homme: Honourable senators, I see that this is day 15 of this motion. With your consent, I would like to move that the debate on this motion be adjourned so that it remains on the Order Paper.

Unless I am mistaken, this motion would be dropped from the Order Paper, since we are at day 15 of its debate. The fact that I am speaking to the importance of the motion at this point constitutes a speech, meaning that it will revert to square one.

Consequently, I am happy to indicate my intention to continue this debate. Pursuant to the *Rules of the Senate*, my speech means that the motion will revert to square one.

On motion of Senator Prud'homme, debate adjourned.

LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE AUTHORIZED TO STUDY BILINGUAL STATUS OF CITY OF OTTAWA

Hon. Jean-Robert Gauthier, pursuant to notice of April 1, 2004, moved:

That the petitions calling on the Senate to declare the City of Ottawa, Canada's capital, a bilingual city, be sent to the Standing Senate Committee on Legal and Constitutional Affairs for consideration;

That the Committee consider the merits of amending section 16 of the Constitution Act, 1867; and

That the Committee report to the Senate no later than October 21, 2004.

He said: Honourable senators, I need not explain to you the motion that has been before us for several months now. More than 25,000 people have signed this petition calling on the Standing Senate Committee on Legal and Constitutional Affairs to consider the matter of declaring the City of Ottawa, Canada's capital, a bilingual city. I have nothing to add since everything has been said.

Municipalities, in Ontario as in other provinces, are provincial creations. Ottawa is unique because it is the only city in Canada that was mentioned in the Constitution, in section 16.

Section 16 clearly states:

Until the Queen otherwise directs, the Seat of the Government of Canada shall be Ottawa.

In the context of 1867, this was a decision of Her Majesty the Queen of England. The City of Ottawa, which was then called Bytown, is now a major city. It now has a population of about 750,000 people and, in my opinion, it is a good reflection of Canada.

The city has representatives from both founding nations. It also has a significant number of Canadians who recently came to our country, immigrants who have adopted our lifestyle and who are now part of a multicultural heritage that makes us proud.

My riding of Ottawa-Vanier, where I was born, used to be a riding where minorities lived, including Portuguese, Italians and Jews. Everyone spoke French in Ottawa's lowertown. It was the language spoken. Sometimes, we would have diverging views. When we played hockey or lacrosse, we would sometimes argue over the rules. However, we never fought over linguistic issues.

We did not always agree on religious issues. Protestants lived in a neighbourhood that was on the other side of the Rideau Canal, in the upper part of the city. As for us, we were Catholics. In fact, my best friend was Jewish, even though we thought he was a Catholic. Even back then, we would defend our minority rights.

I have spent a good part of my life trying to make the majority understand that we want no more and no less than the equality of both official languages.

I find it perfectly normal that the capital of my country would be a city that represents all Canadians, in both official languages, and with a profound respect for other cultures. There is a cultural diversity that must be respected. If we respect bilingualism, we respect multiculturalism. These are interdependent. We cannot be tolerant toward the principle of two official languages and intolerant toward newcomers. We must be respectful of the differences. It enriches us.

Honourable senators, I do not want to make a long speech. Still, I would like to have the Standing Committee on Legal and Constitutional Affairs examine this issue, because it worries me.

I have obtained certain undertakings from the province, saying, "Do not worry, Mr. Gauthier; we will make sure Ottawa is declared bilingual."

It still has not been done. I have received letters and I have had conversations, but one day someone will have to make a decision.

The City of Ottawa has recently been restructured and expanded. This important city should also reflect the Canada we want.

I want to be as proud of my city as the French are of Paris or the English of London. Symbols are important and a national capital ought to reflect its country. That is why I want the Standing Committee on Legal and Constitutional Affairs to consider the question. The committee would have to hear witnesses and make a report, eventually, on the possibility of amending the Constitution and including the fact that linguistic duality is a Canadian reality that distinguishes us from others and to which we are attached.

• (1550)

[English]

Hon. Joan Fraser: Honourable senators, with this motion, Senator Gauthier is raising two important issues. The first issue that continues to bedevil us, but about which we do not get around to doing anything, is what we should do with petitions once they have been presented in this chamber. At the moment, nothing much happens to them and our rules do not address the

question adequately. Yet, thousands of people put their names to those petitions and they deserve some assurance that we will do more than just listen with half an ear when a senator presents them.

The second issue addressed in this motion is the subject matter of petitions, which is extremely important. I believe this chamber is already on record as supporting the concept that the capital of Canada should be a city that is officially bilingual. I personally support that idea with every fibre of my being. That is what Canada is about, and it is what our capital city should reflect in all ways, particularly in law. Nonetheless, there are constitutional questions about the status of the national capital and in what ways it can be affected.

I would suggest that Senator Gauthier's motion is a most fitting proposal, that is, we take petitions that have been signed by thousands of Canadians on a subject of serious importance and send them for serious consideration to the appropriate committee of this place. I would urge all honourable senators to accept the proposal.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

NATIONAL SECURITY AND DEFENCE

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE—MOTION WITHDRAWN

On Motion No. 79:

That the Standing Senate Committee on National Security and Defence have power to sit at 5:00 p.m. on Monday, May 3, 2004, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

Hon. Colin Kenny: Honourable senators, I understand that this motion is superfluous, as the Senate will not sit on Monday. Therefore, I request permission to withdraw the motion.

The Hon. the Speaker pro tempore: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Motion withdrawn.

The Hon. the Speaker pro tempore: We are at the end of the Orders of the Day. Is it agreed that we suspend the sitting until 5:15 p.m.?

Hon. Senators: Agreed.

The sitting of the Senate was suspended.

• (1710)

[Translation]

The sitting of the Senate was resumed.

PUBLIC SAFETY BILL 2002

THIRD READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Day, seconded by the Honourable Senator Léger, for the third reading of Bill C-7, to amend certain Acts of Canada, and to enact measures for implementing the Biological and Toxin Weapons Convention, in order to enhance public safety;

And on the motion in amendment of the Honourable Senator Nolin, seconded by the Honourable Senator Lynch-Staunton, that the bill be not now read a third time but that it be amended, on page 103, by adding after line 26 the following:

“Review and Report

111.2 (1) Within three years after this Act receives royal assent, a comprehensive review of the provisions and operation of this Act shall be undertaken by such committee of the Senate, of the House of Commons or of both Houses of Parliament as may be designated or established by the Senate or the House of Commons, or by both Houses of Parliament, as the case may be, for that purpose.

(2) The committee referred to in subsection (1) shall, within a year after a review is undertaken pursuant to that subsection or within such further time as may be authorized by the Senate, the House of Commons or both Houses of Parliament, as the case may be, submit a report on the review to Parliament, including a statement of any changes that the committee recommends.”.

The Hon. the Speaker pro tempore: The bells to call in the senators will be sounded for fifteen minutes in order for the vote to be taken at 5:30 p.m.

Please call in the senators.

• (1730)

[English]

Motion in amendment negatived on the following division:

YEAS THE HONOURABLE SENATORS

Andreychuk
Atkins
Forrestall
LeBreton
Lynch-Staunton

Murray
Nolin
Plamondon
Prud'homme
Stratton—10

NAYS
THE HONOURABLE SENATORS

Adams	Harb
Austin	Jaffer
Baker	Kenny
Banks	LaPierre
Biron	Léger
Callbeck	Losier-Cool
Carstairs	Mercer
Cook	Moore
Corbin	Munson
Day	Phalen
Fairbairn	Poulin
Ferretti Barth	Ringuette
Finnerty	Robichaud
Fitzpatrick	Rompkey
Fraser	Sibbeston
Gauthier	Smith—33
Graham	

ABSTENTIONS
THE HONOURABLE SENATORS

Nil

On motion of Senator Rompkey, debate adjourned.

ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Tuesday, May 4, 2004, at 2 p.m.

The Hon. the Speaker *pro tempore*: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Tuesday, May 4, 2004, at 2 p.m.

APPENDIX
(See page 974)

OBSERVATIONS

to the Fifth Report of the Standing Senate Committee
on Social Affairs, Science and Technology

Bill C-24, *An Act to amend the Parliament of Canada Act*, is intended to allow retired parliamentarians aged between 50 and 55 to continue receiving health, dental and life insurance benefits, even though they are not entitled to their pension during that period as the Act specifies that MP pensions cannot be paid until the retiree has reached age 55.

To justify this amendment, it was argued before the Committee that the benefits for retired Parliamentarians are essentially identical to the benefits provided to retired public servants. In actual fact, public servants have an option to retire as early as age 50, suffering a penalty in the form of a reduced pension but continuing their benefit plan coverage. This option is not available to Parliamentarians due to the terms of the *Members of Parliament Retiring Allowances Act*.

Proponents of Bill C-24 suggest that it fills a gap in coverage and brings retirement benefits for Parliamentarians in line with those of public servants. Witnesses appearing before the Committee, however, disagreed. Individuals who have left the public service do not have the option of benefit plan coverage between the ages of 50 and 55 prior to receiving their pensions. In essence, it was argued that the government is legislating a double standard: one for former Parliamentarians and one for retired public servants. The Committee was also informed that the vast majority of private plans require that retirees be in receipt of their pension before any health or dental benefits become available.

The Committee understands that the impetus for this Bill lay in the circumstances of one particular Member of Parliament, but that others are also affected. While we are supportive of the specific case, the Committee does have concerns about the process followed; in particular, the use of legislation that amends legislation of general application and impacts a broad policy area, with little debate or public input, when other means may have been available to address an individual situation.

Unfortunately, the Bill's underlying objectives and overall impact were not addressed in any detail in the House of Commons, where it was passed pursuant to the terms of a House Order at all stages in less than one hour, with minimal debate and without committee review. At the very least, other non-legislative options should have been considered to accommodate a unique situation, such as an Order in Council

or through internal administrative means. If there is a legislative oversight or gap, it ought to be addressed in the regular legislative course. The amendments contemplated in this Bill could be presented as part of omnibus legislation or in the context of future revisions to the *Parliament of Canada Act*, or to the *Members of Parliament Retiring Allowances Act*, thereby ensuring that they are analyzed and debated in a thorough manner with greater public participation and input.

The long-term ramifications of this bill are also unclear. Witnesses suggested that it might, for example, set a precedent that could impact future public service collective bargaining. The extension of these benefits to Parliamentarians could result in nearly half a million federal employees requesting similar pre-pension health and dental benefits.

The Committee is particularly concerned about public perception of legislation that is "fast-tracked," a concern that is amplified when a bill addresses compensation or benefits for Parliamentarians. It is even more troublesome in this instance, as we are asked to approve increased healthcare benefits for Parliamentarians at a time when broader public healthcare issues desperately need to be addressed by government. While such bills may be eminently defensible and necessary, we must be more sensitive to the added cynicism they may engender among Canadians.

The dilemma facing the Committee was that we sympathize with the situation of the individual retiring Parliamentarian, who wishes to have continuous coverage and appears to have been caught in an inadvertently created gap, but at the same time the Committee is concerned that this legislation appears to be providing Parliamentarians with benefits which are superior to those available to civil servants when that was not the stated intention.

A better approach might have been to amend the *Members of Parliament Retiring Allowances Act* to permit former Parliamentarians to take a reduced pension prior to age 55 and receive plan coverage, making the system and choices more comparable to those available to former civil servants.

That was not an option open to the Committee, but is one, which we suggest for future consideration.

THE SENATE OF CANADA
PROGRESS OF LEGISLATION
 (3rd Session, 37th Parliament)
 Thursday, April 29, 2004

GOVERNMENT BILLS
 (SENATE)

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
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GOVERNMENT BILLS
 (HOUSE OF COMMONS)

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
C-3	An Act to amend the Canada Elections Act and the Income Tax Act	04/04/01	04/04/22	Legal and Constitutional Affairs					
C-4	An Act to amend the Parliament of Canada Act (Ethics Commissioner and Senate Ethics Officer) and other Acts in consequence	04/02/11	04/02/26	Rules, Procedures and the Rights of Parliament	04/03/23	0	04/03/30	04/03/31	7/04
C-5	An Act respecting the effective date of the representation order of 2003	04/02/11	04/02/20	Legal and Constitutional Affairs	04/02/26	0	04/03/10	04/03/11	1/04
C-6	An Act respecting assisted human reproduction and related research	04/02/11	04/02/13	Social Affairs, Science and Technology	04/03/09	0	04/03/11	04/03/29	2/04
C-7	An Act to amend certain Acts of Canada, and to enact measures for implementing the Biological and Toxin Weapons Convention, in order to enhance public safety	04/02/11	04/03/11	Transport and Communications	04/04/01	0			
C-8	An Act to establish the Library and Archives of Canada, to amend the Copyright Act and to amend certain Acts in consequence	04/02/11	04/02/18	Social Affairs, Science and Technology	04/03/11	3	04/03/29	04/04/22	11/04
C-11	An Act to give effect to the Westbank First Nation Self-Government Agreement	04/04/27	04/04/29	Aboriginal Peoples					
C-13	An Act to amend the Criminal Code (capital markets fraud and evidence-gathering)	04/02/12	04/02/24	Banking, Trade and Commerce	04/03/11	0	04/03/22	04/03/29	3/04
C-14	An Act to amend the Criminal Code and other Acts	04/02/12	04/02/25	Legal and Constitutional Affairs	04/04/01	0	04/04/21	04/04/22	12/04
C-15	An Act to implement treaties and administrative arrangements on the international transfer of persons found guilty of criminal offences	04/04/27							
C-16	An Act respecting the registration of information relating to sex offenders, to amend the Criminal Code and to make consequential amendments to other Acts	04/02/12	04/02/19	Legal and Constitutional Affairs	04/03/25	0	04/04/01	04/04/01	10/04

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
C-17	An Act to amend certain Acts	04/02/12	04/03/09	Legal and Constitutional Affairs	04/04/29	0			
C-18	An Act respecting equalization and authorizing the Minister of Finance to make certain payments related to health	04/03/10	04/03/22	National Finance	04/03/23	0	04/03/25	04/03/29	4/04
C-20	An Act to change the names of certain electoral districts	04/02/23	04/03/09	Legal and Constitutional Affairs					
C-21	An Act to amend the Customs Tariff	04/03/24	04/04/01	Banking, Trade and Commerce	04/04/22	0	04/04/28	04/04/29	13/04
C-22	An Act to amend the Criminal Code (cruelty to animals)	04/03/09	04/04/20	Legal and Constitutional Affairs					
C-24	An Act to amend the Parliament of Canada Act	04/03/22	04/03/29	Social Affairs, Science and Technology	04/04/29	0			
C-26	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2004	04/03/22	04/03/25	—	—	—	04/03/26	04/03/31	5/04
C-27	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2005	04/03/22	04/03/25	National Finance	04/03/30	0	04/03/30	04/03/31	8/04

COMMONS PUBLIC BILLS

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
C-212	An Act respecting user fees	04/02/03	04/02/11	National Finance	04/02/26	10	04/03/11	04/03/31	6/04
C-249	An Act to amend the Competition Act	04/02/03	04/04/01	Banking, Trade and Commerce					
C-250	An Act to amend the Criminal Code (hate propaganda)	04/02/03	04/02/20	Legal and Constitutional Affairs	04/03/25	0	04/04/28	04/04/29	14/04
C-260	An Act to amend the Hazardous Products Act (fire-safe cigarettes)	04/02/03	04/02/23	Energy, the Environment and Natural Resources	04/03/10	0	04/03/30	04/03/31	9/04
C-300	An Act to change the names of certain electoral districts	04/02/03							

SENATE PUBLIC BILLS

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
S-2	An Act to prevent unsolicited messages on the Internet (Sen. Oliver)	04/02/03	04/03/23	Transport and Communications					
S-3	An Act to amend the Constitution Act, 1867 and the Parliament of Canada Act (Speakership of the Senate) (Sen. Oliver)	04/02/03		subject-matter 04/03/11 Legal and Constitutional Affairs					
S-4	An Act to amend the Official Languages Act (promotion of English and French) (Sen. Gauthier)	04/02/03	04/02/26	Official Languages	04/03/09	0	04/03/11		

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
S-5	An Act to protect heritage lighthouses (Sen. Forrester)	04/02/03	04/02/05	—	—	—	04/02/05		
S-6	An Act to amend the Criminal Code (lottery schemes) (Sen. Lapointe)	04/02/04	04/02/11	Legal and Constitutional Affairs					
S-7	An Act respecting the effective date of the representation order of 2003 (Sen. Kinsella)	04/02/04	Bill withdrawn pursuant to Speaker's Ruling 04/03/23						
S-8	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	04/02/05	04/02/12	Energy, the Environment and Natural Resources	04/03/10	0	04/03/11		
S-9	An Act to honour Louis Riel and the Metis People (Sen. Chailfoux)	04/02/05							
S-10	An Act to amend the Marriage (Prohibited Degrees) Act and the Interpretation Act in order to affirm the meaning of marriage (Sen. Cools)	04/02/10							
S-11	An Act to repeal legislation that has not been brought into force within ten years of receiving royal assent (Sen. Banks)	04/02/11	04/03/09	Legal and Constitutional Affairs					
S-12	An Act to amend the Royal Canadian Mounted Police Act (modernization of employment and labour relations) (Sen. Nolin)	04/02/12	04/04/28	National Finance					
S-13	An Act to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions (Sen. Stratton)	04/02/19							
S-14	An Act to amend the Agreement on Internal Trade Implementation Act (Sen. Kelleher, P.C.)	04/03/10		subject-matter 04/03/22 Banking, Trade and Commerce					
S-16	An Act to amend the Copyright Act (Sen. Day)	04/03/11	04/03/23	Social Affairs, Science and Technology					
S-17	An Act to amend the Citizenship Act (Sen. Kinsella)	04/03/25	04/04/01	Social Affairs, Science and Technology					
PRIVATE BILLS									
No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
S-15	An Act to amend the Act of incorporation of Queen's Theological College (Sen. Murray, P.C.)	04/03/10	04/03/11	Legal and Constitutional Affairs	04/03/25	0	04/03/25	04/04/01	

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37th PARLIAMENT

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VOLUME 141

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OFFICIAL REPORT
(HANSARD)

Tuesday, May 4, 2004

THE HONOURABLE DAN HAYS
SPEAKER



This issue contains the latest listing of Senators, Officers of the Senate, the Ministry,
and Senators serving on Standing, Special and Joint Committees

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THE SENATE

Tuesday, May 4, 2004

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

MENTAL HEALTH WEEK

Hon. Marjory LeBreton: Honourable senators, May 3 to 9 is Mental Health Week. The Canadian Mental Health Association uses this week to promote mental health issues across the country and to honour those who face mental health problems with courage and dignity every day.

The necessity for Mental Health Week is strong as one in five Canadians will experience a mental health problem in his or her lifetime, whether it is depression, anxiety or a more serious illness such as an eating disorder or schizophrenia.

In recognition of the need for a comprehensive national strategy in this area, the Standing Senate Committee on Social Affairs, Science and Technology has been studying mental health and mental illness in Canada for over a year now and has heard from a wide variety of groups and individuals during this undertaking.

The themes of this year's Mental Health Week are, "Emerging Into Light" and "Making Connections." Ensuring good mental health for all Canadians requires that connections be made between many different groups, such as families, health care professionals, employers and others.

Although mental illnesses are often viewed as personal struggles, they impact on our society as a whole. According to Health Canada, mental illness and mental health problems are some of the most costly conditions in our country as mental disorders resulted in a cost of over \$14 billion in 1998, the last year for which we have solid figures.

The emotional toll of mental illness on families, friends and patients themselves cannot be measured in dollars, but it is no less damaging. On an individual level, reaching out to others and making personal connections is often the first step that people take toward well-being.

The Canadian Mental Health Association has pointed out that when a person finally finds the strength to seek help their first contact with the mental health system is usually a discussion of how long they must wait for assistance. As in other areas of our health care system, Canadians requiring mental health treatment must deal with long waiting lists and physician shortages. More often than not, they must also contend with negative attitudes of segregation and discrimination.

Honourable senators, sadly, the stigma placed on those with mental health problems still exists, despite years of work from groups such as the Canadian Mental Health Association to change public perception.

However, we must continue to dispel misconceptions and to work toward an effective national public awareness strategy. Attitudes have changed dramatically over the years. We can only hope that they will continue to evolve and that new connections will be made.

I congratulate the Canadian Mental Health Association for its dedication and hard work, and I sincerely hope that Mental Health Week is very successful as they strive to make major improvements in the areas of mental health and mental illness.

[Translation]

ARRIVAL OF FRENCH COLONISTS IN NORTH AMERICA

FOUR HUNDREDTH ANNIVERSARY

Hon. Viola Léger: Honourable senators, the celebrations of the 400th anniversary of the arrival of the French in North America are now well under way, and picking up speed at every curve. Amerindians, French, Canadians and Acadians mark this occasion with a "Grand Tintamarre," a great outpouring of noise.

On November 8, 2003, France and Acadia opened the ball. Simultaneously in Versailles, France, and Moncton, New Brunswick, there were re-enactments of the proclamation by Henri IV authorizing Pierre Dugua, Sieur de Mons, and cartographer Samuel de Champlain to found a colony in North America. Since this grand opening, the 400th anniversary has been celebrated across the country. Already, France has proudly displayed its helicopter carrier, *Jeanne d'Arc*, in Halifax, and the ship *Don de Dieu* set out from Le Havre, France, on April 3, expected to reach Île-Sainte-Croix on June 26.

And that same day, June 26, Canada will mark the opening of the summer's festivities. The State of Maine in the United States and Saint Andrews in New Brunswick will roll out the red carpet for First Nations, Acadians, French and Americans, who are celebrating this 400th anniversary, each in their own way. Acadia, Toronto, Ottawa, Wolfville, Nova Scotia, Newfoundland and Labrador, Alberta, Montreal, Rustico, Vancouver, Bathurst — everyone is on board!

Some of the major events include: in Montreal, the *Symphonie portuaire* by Marc Beaulieu, at the Pointe-à-Callière Museum; in Caraquet, *Les Défricheurs d'eau*; in Nova Scotia, the World Acadian Congress; in Halifax, on August 15, the 400th anniversary extravaganza; in Rustico, Prince Edward Island, *Le buste de l'empereur Napoléon III*; in Cocagne, *Saveurs et couleurs de l'Acadie* — a painter and a chef join

forces; in Bathurst, the Conseil économique du Nouveau-Brunswick (CENB) Economic Summit; also in Bathurst, an opera, *Traversée*, by Ludmila Knezakova-Hussey, with the Orchestre militaire de Paris; in Saint John, New Brunswick, Paris's Comédie française will present *Le malade imaginaire*; in Bouctouche, the blockbuster show, *l'Odyssée 1604 à 2004*, by Antonine Maillet; in Pointe-à-l'Église, Nova Scotia, *Conférences académiques: Vision 20/20*; on the Îles-de-la-Madeleine, *Un Vent d'Acadie*; on Saint-Pierre and Miquelon, *La France en Amérique*; in Grand-Pré, a mass celebrating reconciliation.

Honourable senators, I wish you all a very happy 400th anniversary.

• (1410)

[English]

THE LATE MICHAEL WADSWORTH, Q.C.

Hon. Norman K. Atkins: Honourable senators, I rise today to pay tribute to an outstanding Canadian citizen, Michael Wadsworth.

Michael died last Wednesday, as he lived, surrounded by his family. His life was celebrated at St. Michael's Cathedral in Toronto on Saturday, May 1, 2004.

Born in Ottawa in 1943, Michael's family later moved from the Ottawa Valley to Toronto. As a young Torontonion, he was an outstanding athlete and student. He earned a scholarship to the University of Notre Dame in South Bend, Indiana, to study and play football. He then went on to play for the Toronto Argonauts in the CFL, where he was named the Rookie of the Year, following in the footsteps of his father, who also was an all-star player in the league.

During his illustrious career, he became a broadcaster, a criminal defence lawyer and a corporate executive. He excelled in all of these roles. At the beginning of his law career, Michael articulated under the distinguished lawyer Arthur Maloney, a member of Parliament from 1958 to 1962. It is interesting to note that later in his career one of his dearest friends was the now-deceased Father Sean O'Sullivan, who was also a member of Parliament.

In 1989, he joined Canada's ambassadorial ranks as Ambassador to Ireland and fulfilled that role for five years. He became known as one of the most popular and successful ambassadors Ireland had seen.

Following his contribution to the diplomatic ranks, he rejoined his alma mater as athletic director for Notre Dame and managed to make his presence known. During his tenure as athletic director, he oversaw one of the most successful periods in athletic competition in the school's history and ensured that the university graduated its student athletes at a rate of 99 per cent.

His early academic and football career set the stage for his strong principles and values — indeed, his overall character. Throughout his career, he was a very humble and unassuming man, despite his obvious success.

Michael was a man of unfailing integrity in all facets of his life. He was truly the ultimate family man. He was devoted to his wife, Bernadette, for 38 years and they were everything to each other. He was proud of their three lovely daughters, their husbands and his seven grandchildren. Bernadette and his family were his focus and inspiration in life.

We have lost a great Canadian and friend, honourable senators, but Michael will live on in our hearts and minds. Anyone who knew Michael as a friend or associate was the better for having known him.

My condolences and warmest wishes go to his wife, Bernie, daughters Carolan, Mary and Jane, along with his beloved mother, Catherine, and the rest of his family and relatives.

THE MUSIC OF ERIC MACEWEN

Hon. Catherine S. Callbeck: Honourable senators, all Canadians take pride in their distinctive traditions. Through music, art, literature, dance and other forms of artistic expression, Canadians of all backgrounds share in a rich and lively multicultural experience. The celebration of those cultural traditions is part of the fabric of Canadian society.

Today, I wish to pay tribute to an exceptional individual who has helped to bring the rich and powerful traditions of East Coast music to the forefront. For close to 40 years, Eric MacEwen of Prince Edward Island has introduced the music of Eastern Canada to hundreds of thousands of people throughout Canada and the United States. His weekly radio program is still heard throughout Atlantic Canada, bringing pleasure and pride to his loyal listeners.

Eric MacEwen was a proponent of East Coast music long before it entered the more popular mainstream. He has helped bring many artists throughout the region to the attention of a larger audience. His enthusiasm and energy and his unwavering support are recognized as one of the reasons East Coast music has achieved the status it enjoys today.

Eric MacEwen was one of the early proponents of the East Coast Music Awards. This annual event recognizes the rich and diverse talents of East Coast musicians and has helped bring them to national prominence. In Eric MacEwen, Canada's down east music has a true friend and ally.

Just recently, Eric was diagnosed with cancer. In recognition of his many contributions, many of Atlantic Canada's leading musicians are holding a tribute concert for him at Confederation Centre of the Arts in Charlottetown this Saturday evening. It will be an evening of tribute, of appreciation and of celebration for someone who has done so much to bring alive the music and spirit of the Atlantic region for the enjoyment of people across the country and around the world.

Today, I am pleased to join in paying tribute to Eric, to wish him all the best during this time. I want him to know how much he is loved and respected.

DROUGHT AND CIVIL STRIFE IN SUDAN

Tuesday, May 4, 2004

Hon. Mobina S. B. Jaffer: Honourable senators, the raising of the issue of Darfur by Senator Andreychuk is timely indeed, as the concern of the international community deepens over the terrible events that are happening in western Sudan. The situation in Darfur is truly devastating, and I can confirm, as the Minister of Foreign Affairs' Special Envoy to the Sudan Peace Process, that both Foreign Affairs Canada and CIDA have been working actively to promote substantive international action to address this tragedy.

The UN estimates that over 1 million people have been displaced and more than 100,000 refugees have fled to Chad. To address the immediate humanitarian needs of these people, CIDA has provided, since January 2004, over \$8.6 million to assist war- and drought-affected persons within Sudan, including the Darfur region. CIDA has also provided over \$3 million in assistance to Sudanese refugees in Chad.

Canada has been working vigorously on various diplomatic fronts, including at the United Nations Commission on Human Rights where Canadian diplomats played a key role in the successful effort to establish an independent UN expert for this issue.

The Minister of Foreign Affairs recently issued two press statements calling on the Government of Sudan and the rebels to resolve the crisis peacefully. Canada has also actively encouraged the discussion of Darfur at the UN Security Council. In addition, the Government of Canada has repeatedly called on the Government of Sudan to protect civilians, to facilitate immediate and unhindered access to humanitarian assistance, and to respect human rights and humanitarian law.

This conflict in Darfur is doubly tragic as it is unfolding as the parties to the long-standing civil war in southern Sudan appear to be near an agreement to end that horrific conflict. Canada has been an important political and financial supporter of both the official peace process and the unofficial peace-building efforts. We hope that the ceasefire in Darfur will hold, that all parties will allow unimpeded humanitarian access, and that a resolution of the conflict in the south will point the way toward a just and lasting peace throughout all of Sudan.

I join Minister Graham, my colleagues in the network of international supporters of the Sudan peace process, and concerned people worldwide in urging both parties to the conflict in Darfur to negotiate in good faith to end this tragedy. I travel to the region next week.

ROUTINE PROCEEDINGS

WESTBANK FIRST NATION SELF-GOVERNMENT BILL

REPORT OF COMMITTEE

Hon. Nick G. Sibbeston, Chair of the Standing Senate Committee on Aboriginal Peoples, presented the following report:

The Standing Senate Committee on Aboriginal Peoples has the honour to present its

SECOND REPORT

Your Committee, to which was referred Bill C-11, *An Act to give effect to the Westbank First Nation Self-Government Agreement*, has, in obedience to the Order of Reference of Thursday, April 29, 2004, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

NICK G. SIBBESTON
Chair

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Fitzpatrick, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

• (1420)

[Translation]

CANADA NATIONAL PARKS ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-28, to amend the Canada National Parks Act.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Romkey, bill placed on the Orders of the Day for second reading two days hence.

[English]

FOREIGN AFFAIRS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE
TO EXTEND DATE OF FINAL REPORT
ON STUDY ON TRADE RELATIONSHIPS
WITH UNITED STATES AND MEXICO

Hon. Peter A. Stollery: Honourable senators, I give notice that, at the next sitting of the Senate, I shall move:

That, notwithstanding the Order of the Senate adopted on February 10, 2004, the date for the final report of the Standing Senate Committee on Foreign Affairs regarding its study of the Canada — United States of America trade relationship and the Canada — Mexico trade relationship be extended from June 30, 2004 to March 31, 2005.

[Translation]

OFFICIAL LANGUAGES

BILINGUAL STATUS OF CITY OF OTTAWA—
PRESENTATION OF PETITIONS

Hon. Jean-Robert Gauthier: Honourable senators, pursuant to rule 4(h) of the *Rules of the Senate*, I have the honour to table petitions signed by 56 people asking that Ottawa, the capital of Canada, be declared a bilingual city and the reflection of the country's linguistic duality.

The petitioners pray and request that Parliament consider the following:

That the Canadian Constitution provides that French and English are the two official languages of our country and have equality of status and equal rights and privileges as to their use in all institutions of the government of Canada;

That section 16 of the Constitution Act, 1867 designates the city of Ottawa as the seat of the government of Canada;

That citizens have the right in the national capital to have access to the services provided by all institutions of the government of Canada in the official language of their choice, namely English or French;

That the capital of Canada has a duty to reflect the linguistic duality at the heart of our collective identity and characteristic of the very nature of our country.

Therefore, your petitioners ask Parliament to confirm in the Constitution of Canada that Ottawa, the capital of Canada — the only one mentioned in the Constitution — be declared officially bilingual, pursuant to section 16 of the Constitution Act, from 1867 to 1982.

[English]

QUESTION PERIOD

HEALTH

HOSPITAL WAITING PERIODS

Hon. Wilbert J. Keon: Honourable senators, my question is for the Leader of the Government in the Senate.

Honourable senators, earlier this month, the Organisation for Economic Co-operation and Development released a study looking into medical wait lists around the world. It found that about half of OECD countries do not share Canada's problem with long wait lists. Many of those countries have health care systems and population demographics similar to ours but have

found a way to adequately deal with the demand for services. The study found that, among the countries that have wait lists, the length of time Canadians must wait for procedures is ranked in the middle of the group.

My question for the Leader of the Government in the Senate is this: Is he aware of any government initiatives to deal with this issue, particularly with the possibility of a summit this summer?

Hon. Jack Austin (Leader of the Government): Honourable senators, the question of wait lists for important medical procedures is at the centre of the federal government's concerns. This issue was highlighted by the report of the Social Affairs, Science and Technology Committee, the chair of which is Senator Kirby and the deputy chair of which is Senator LeBreton. The Senate can be proud that that report highlighted wait lists as one of the most important health care issues concerning Canadians today.

Canada has a complexity, as Senator Keon knows, unlike that of others in the statistical base. In our federal system, the provinces are responsible, in the main, for carrying the burdens and costs of health care, as well as its administration.

The federal government has acted for many years now in an attempt to identify problems and assist the provinces in creating uniform Canadian standards, which is a major part of the actions of a federal government.

I am hopeful that the first ministers meeting that will be called to deal with health care issues will directly address the question of wait lists. The federal government, as Senator Keon will know, has offered additional funding to the provinces on the basis that they will specifically tackle the wait list issue and do so in a way that is coordinated and transparent.

Senator Keon: Honourable senators, the U.K. has undergone a transformation in recent years on how it deals with wait lists. I appreciate that in his remarks the government leader pointed out the difference. The U.K. has one system, whereas Canada has several, with the provinces and territories.

With respect to the U.K., wait times for some procedures have been reduced from up to two years to only a matter of months. The changes undertaken by the U.K. to achieve this reduction involved a spending increase of 42 per cent over seven years, improved data collection and a major transfer of decision-making powers down to the frontline staff.

Can the Leader of the Government in the Senate tell us whether the Prime Minister will be briefed on what was done in the U.K., and whether this subject can enter the dialogue when the summit takes place.

Senator Austin: In response to Senator Keon, the Department of Health and the Privy Council Office have been working extensively on background materials, including OECD studies and the way in which the service delivery system works in OECD countries. I believe the Prime Minister will not only be very familiar with all of the options but that he will have proposals to submit.

PRIVATE CARE—COMMENTS BY MINISTER

Hon. Marjory LeBreton: Honourable senators, my question is for the Leader of the Government in the Senate.

Last Wednesday, the Minister of Health, Pierre Pettigrew, was forced to backtrack on statements that he had made the day before to a House of Commons committee. The minister told the committee that if some provinces wish to experiment with the private delivery option, the federal government would examine their efforts and that, to quote the minister, "if it works, we will all learn something."

However, after being chastized by the Prime Minister for veering off pre-election strategy, the Minister of Health was forced to issue a retraction.

Could the Leader of the Government in the Senate tell us the government's position on this issue today? Is it the position held last Wednesday or is it the one that was taken by the minister on Tuesday?

• (1430)

Hon. Jack Austin (Leader of the Government): Honourable senators, the government's position is as stated by the Minister of Health in his press conference. He explained the background of his circumstance and made it clear that the government's policy is publicly funded, universally accessible and publicly delivered health care.

Senator LeBreton: Honourable senators, the minister certainly never took his eyes off his prepared notes.

Honourable senators, the comments coming from the federal government on health care last week have been extremely confusing to provincial premiers who sat down with the previous Prime Minister last year and will sit down with the federal government this summer in an effort to make a health care deal.

How can the Liberal government expect to reach a long-term deal with the provinces on health care when it does not even know what its own position is from day to day?

Senator Austin: Honourable senators, the concluding words of Senator LeBreton's statement are simply not accurate. The Government of Canada intends to maintain and build upon the existing system as outlined in the Canada Health Act. The proposals for the discussions that will take place will not vary. The five principles or criteria contained within the Canada Health Act are public administration, comprehensiveness, universality, portability and accessibility.

Senator LeBreton: Honourable senators, I have a supplementary comment, perhaps just to set the record straight on the five principles of the Canada Health Act. There is no doubt that the Canada Health Act and medicare as we know it were brought in by the Liberal government of Lester Pearson. However, the five principles of the Canada Health Act were established when John Diefenbaker commissioned Mr. Justice Hall to conduct a royal commission on health. Those five principles came in fact from the royal commission report of Mr. Justice Emmett Hall, established by Conservative Prime

Minister John Diefenbaker. I just thought I would set the record straight.

Senator Austin: To set the record straight, honourable senators, the Canada Health Act was passed in the early 1980s by the Trudeau government. I had the pleasure and interest of chairing the cabinet committee that dealt with that particular legislation.

NATIONAL DEFENCE

INCIDENCE OF MENTAL HEALTH LEAVE

Hon. Michael A. Meighen: Honourable senators, it was reported this week in the *Ottawa Sun* that mental health issues now account for the largest proportion of sick leave taken by our troops. Depression and post-traumatic stress disorder are the main culprits, accounting for more absences than knee or back injuries. Why is this so? The report listed several potential reasons, including the force's high operational tempo, the presence of civilian physicians at military clinics and the shifting of sick-leave approval from commanding officers to medical officers.

I think all senators would agree that it is important to move beyond potential causes to identify the actual causes of this situation so that it can be properly addressed. Can the honourable Leader of the Government in the Senate find out if there will be a follow-up report to determine the definitive as opposed to potential reasons for this distressing situation?

Hon. Jack Austin (Leader of the Government): Honourable senators, I did see the report, but, as yet, I have been unable to better inform myself on what appeared in the newspapers. I thank Senator Meighen for outlining a number of the specific issues that concern the forces with respect to mental health.

This does give me the opportunity to advise Senator Meighen and others in the chamber who are interested that the Minister for Veterans Affairs has an announcement to make today, I believe, with respect to a modern-day veterans' charter that will enshrine benefits for soldiers who served at least three years and were honourably discharged. This program is for soldiers who have been active in the current period and who then leave military service. It is designed to ensure that the Department of Veterans Affairs supports their well-being, including mental health.

QUALITY OF MILITARY HOMES

Hon. Michael A. Meighen: Honourable senators, if the information of the Leader of the Government is correct, that is certainly welcome news. As my leader just whispered to me, it is too bad we do not have an election every year. Then we would see some progress on many of these issues.

Honourable senators, on the same day and in the same newspaper that the report to which I alluded came to light, we also learned about the poor quality of many of our Canadian Forces military homes. Most of them were built before 1961 and have higher than recommended levels of asbestos and lead. The Canadians Forces Housing Agency, which is supposed to deal with these issues, says it simply does not have the money. I am not sure, honourable senators, that the Charter will solve that problem.

It is a safe bet, then, that many of our troops suffering from depression and PTSD spend their sick leave in housing where their health is further impaired. Nevertheless, in spite of what I just said, their rent has now been raised, in some cases by as much as \$100 a month. That is a strange way to recognize the valour of our troops.

Will the government agree to freeze the rents of those living in these houses and provide the necessary money so they can be overhauled and brought up to acceptable standards?

Hon. Jack Austin (Leader of the Government): Honourable senators, I will certainly carry those representations to the Minister of National Defence. As Senator Meighen will know, because he is extremely well informed on these matters, the Department of Defence has allocated \$120 million to improve military housing.

FOREIGN AFFAIRS

IVORY COAST—DISAPPEARANCE OF JOURNALIST

Hon. Marcel Prud'homme: Honourable senators, I regret that I did not give notice of this question. I do not expect a comprehensive answer today, but I am duty bound to raise the following question

[Translation]

Honourable senators, my intervention concerns the disappearance of Guy-André Kieffer, a French-Canadian journalist. He vanished on April 16 at Abidjan, Ivory Coast, and nothing has been heard of him since. People are starting to ask me to do something, because he covered Parliament during the 1970s and 1980s.

We know that President Chirac is personally concerned about the disappearance in Abidjan on April 16 of this journalist with dual French and Canadian citizenship who has worked in Parliament. His disappearance has been reported in all the European press. *Journalistes sans Frontières* is very much involved in the case, and it appears that Canada is the only country not to have made representations to the President of Ivory Coast. The missing journalist was en route to the President's home to meet with the President's brother-in-law.

It should be pointed out that, not long before, Radio France reporter, Jean Hélène, was killed in an unfortunate incident in Ivory Coast.

My apologies again for not giving advance notice of this question, but I feel obliged to raise the issue, and who knows whether Parliament will or will not be dissolved; we might have got around to this by Christmas otherwise. I know that you are looking through your notes, and it is likely not there, so I would like you to take note of this question and to make inquiries at Foreign Affairs to find out what they have done. That way I will be able to contact the family. These are very hard questions, you will understand, and they have contacted me directly because they know he used to work here.

[English]

Is there a problem?

An Hon. Senator: You are making a speech. What is the question?

Senator Prud'homme: If you want me to make a speech, I can but a Canadian man has disappeared and I think that requires some explanation. No one has paid attention to his situation. I think honourable senators could be patient, especially my friends from Winnipeg and from Saskatchewan, who take longer than I do when asking questions. I have put my question simply.

I do not want to be partisan, but some day both honourable senators will get it, because I am much more partisan than they may think. Relax. I have made my point.

In order to calm the honourable senators, the government leader can simply say that he will take my question as notice and provide an answer later in the week.

• (1440)

Hon. Jack Austin (Leader of the Government): Honourable senators, I should like to be able to give Senator Prud'homme a specific answer, but I have no information to provide today. I shall, however, press Foreign Affairs Canada for information and endeavour to reply as quickly as possible.

NATIONAL DEFENCE

FIGHTER ESCORT TO AIR CANADA FLIGHT 109

Hon. J. Michael Forrestall: Honourable senators will recall that, last week, CF18s had to be scrambled to escort a civilian airliner, Air Canada flight 109, a regular flight from Halifax to Vancouver, to its point of landing in Vancouver on the West Coast. The alleged threat against the airliner has now been reportedly dismissed. Can the Leader of the Government confirm the rumour that Air Canada sat on that threat for four days prior to notifying the RCMP?

Hon. Jack Austin (Leader of the Government): Honourable senators, I regret that I have no information that would assist me in answering Senator Forrestall's question.

Senator Forrestall: Honourable senators, that gives some indication of the effectiveness of our processes with respect to terrorism and anti-terrorism. I suppose if the minister cannot answer that first question, he cannot answer the supplementary, which has to do with why the RCMP then sat on the threat for a further six hours before someone hit the panic button, notified DND and scrambled the aircraft.

We are searching for any apparent breakdown in direct, effective and immediate communication. The suggestion left in the newspapers is just a little scary for anyone wanting to make long distance flights. If it is just oversight, or absolute dismissal of it, that is one thing; if it is not, it is an entirely different thing. The government leader will appreciate that.

Senator Austin: Honourable senators, Senator Forrestall and I both appreciate that, if there are deficiencies in the response system, they will have been exposed by this particular event. I trust that that exposure will at least provide an amelioration of the problems, but I have no information as such.

However, this echoes a debate in the United States today in the 9/11 commission as to why NORAD was unable to scramble aircraft to intercept the third airliner taken by the terrorists and which did not crash on the Pentagon for more than 40 minutes after two aircraft crashed into the World Trade towers. The point is that our systems had not been geared to deal with this type of terrorism, and now we know what we have to do.

Senator Forrestall: Honourable senators, I appreciate and understand the leader's response to the question. I welcome his suggestion that we now understand that there is an enormous amount to do. If some remedy warrants public disclosure, it would be appreciated if the minister could advise the Senate of the nature of that remedy.

Hon. A. Raynell Andreychuk: Honourable senators, if the Leader of the Government in the Senate will be following up on Senator Forrestall's question, perhaps he could explain why, with respect to Bill C-7, there is not some sharing of information by the security authorities with the airline authorities, to ensure that they are fully apprised of pending threats. It seems to me that we should complete the circle — in other words, everyone who has a responsibility for safety should be speaking to one another.

FOREIGN AFFAIRS

BIOMETRIC PASSPORTS

Hon. A. Raynell Andreychuk: My question to the Leader of the Government is in regard to the federal government's new national security policy, which is providing \$10 million towards issuing passports with a chip containing facial recognition technology. Taking into account the many different elements that would go into creating, maintaining and electronically reading these biometric passports, \$10 million seems like a deceptively low amount for the government to plan on spending. The Liberal government's track record in compiling massive gun registry cost overruns should have taxpayers worried about the potential for a similar outcome here.

Public Safety Minister Anne McLellan has already said that, to fund this project, Canadians may be required to pay an additional application fee for the biometric features on their passports. Could the Leader of the Government in the Senate tell us what the federal government estimates will be for the total cost of supplying Canadians with biometric-capable passports and what it is intending to add to the costs of passports?

Hon. Jack Austin (Leader of the Government): Honourable senators, I shall seek the information the honourable senator requests. I know that Senator Andreychuk is highly aware of the reason the Government of Canada has to move in the direction of

biometric identification and passports. For the information of all honourable senators, the United States is now setting the standards for passport security for the world community, and entry into the United States will not be possible for an individual without offering a passport with this particular information.

While I am on my feet, and before Senator Andreychuk asks a supplementary question, I did want to advise, because I have been asked this question in the past by the honourable senator, that at 11:30 this morning Canada was successful in its bid to be elected to the UN Commission on Human Rights.

Some Hon. Senators: Hear, hear!

Senator Austin: Our membership is for three years, commencing at the beginning of 2005. This is an important organization. Canada has been an observer in its work. It has major problems in resolving its objectives, but Canada hopes to make a contribution in the three years to come.

Senator Andreychuk: Honourable senators, I was aware of that. Sudan was elected to the UN Commission on Human Rights, and no doubt we will have one more opportunity to influence Sudan in this case. I will be monitoring this very closely, to see whether in fact we exercise all avenues within the Commission on Human Rights to deal with those who violate human rights, but, more particularly, those who sit and have some direction as to whether they are monitored on the same level.

However, returning to my question, in the past, the United States has advocated the use of two different biometric identifiers in its visitor travel documents. The British government says that its biometric passport currently in trial use will require a secondary biometric feature in the future, either fingerprints or iris scans. If the federal government does go ahead at this time with the facial recognition feature on the Canadian passports, as the honourable senator has said here, to comply with the United States' standards, it could be extremely costly to add the second identifier later.

• (1450)

Has the federal government taken this scenario into consideration when estimating the financial cost of biometric-capable passports?

Senator Austin: Honourable senators, again, I find the question extremely interesting, and I will seek to provide the chamber with an answer.

However, I do want honourable senators to understand that these standards are set because of the existence of the terrorist threat, not only to the United States but also to other members of the world community. Bill C-7, which was referred to by Senator Andreychuk, and the national security policy, which was described last week, were set in motion to provide security to our communities and also to individuals who have to continue with the processes of commerce and globalization to maintain our way of life and standard of living.

THE SENATE

PASSAGE OF BILL ON CRUELTY TO ANIMALS

Hon. Terry Stratton: Honourable senators, my question is addressed to the Leader of the Government in the Senate and it concerns the disposition of a government bill.

I note that there has been some haste to ensure that bills are passed before the election is called. However, Bill C-22, which is concerned with cruelty to animals, has been in this chamber for almost two years and is currently in committee. Is it the intention of the government to pass the cruelty to animals legislation prior to the call of the election?

Hon. Jack Austin (Leader of the Government): Honourable senators, the government has introduced Bill C-22, and any bill it introduces it normally wants to see passed. The bill is in the Standing Senate Committee on Legal and Constitutional Affairs, and the possibility of amendment is very active.

Senator Stratton: Honourable senators, is that a yes or a no?

[Translation]

TRANSPORT

QUEBEC—ANNOUNCEMENTS ON AGREEMENT TO BUILD HIGHWAY 175

Hon. Jean-Claude Rivest: Honourable senators, my question is for the Leader of the Government in the Senate. About a year ago, Prime Minister Jean Chrétien and Mr. Landry, then the premier of Quebec, announced an agreement to upgrade highway 175, which goes to Saguenay-Lac-Saint-Jean.

Could the minister explain why the current Prime Minister of Canada is going back to that region to announce work on that same highway and in the exact same terms?

[English]

Hon. Jack Austin (Leader of the Government): Honourable senators, I will have to take that question as notice, but I will take it on the basis that Senator Rivest knows his facts.

[Translation]

Senator Rivest: Perhaps our colleague, Senator Gill, could explain to the ministers and to the Prime Minister that people from the Saguenay-Lac-Saint-Jean region do not need two press conferences to understand a point. They are intelligent enough to understand it the first time.

[English]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour of presenting delayed answers to six oral questions posed in the Senate. The first is to an oral question raised on March 10, 2004, by Senator Keon

regarding new initiatives to alleviate the general state of health in aboriginal communities. The second response is to another question raised by the Honourable Senator Keon on March 10, 2004, regarding tuberculosis elimination strategy. The third response is to an oral question raised March 30, 2004, by Senator LeBreton regarding the upcoming first ministers meeting. The fourth is a response to an oral question raised April 1, 2004 by Senator Meighen regarding the Canadian strategy for cancer control. The fifth response is to a question by Senator Spivak on March 24, 2004, concerning genetically modified grains, mandatory labelling. Finally, there is a sixth response to a question raised by Senator Sparrow on April 21, 2004, regarding federal health care jurisdiction on reserve.

HEALTH

NEW INITIATIVES TO ALLEVIATE GENERAL STATE OF HEALTH OF ABORIGINAL COMMUNITY

(Response to question raised by Hon. Wilbert J. Keon on March 10, 2004)

While the life expectancy rates for Aboriginal people in Canada are lower than the rates for other Canadians, the gap has narrowed considerably over the past two decades. In 1980, the difference was approximately 11 years for both men and women. In 2000, life expectancy for the registered Indian population was estimated at 69 years for males and 77 years for females, reflecting differences of 7 and 5 years from the life expectancy rates for all Canadians.

Similarly, the infant mortality rate for First Nations has been steadily decreasing over the past two decades. The rate was 27.6 deaths per 1000 births in 1979 and in 2000, this rate had dropped to 6.4 deaths per 1000 births, in comparison with 5.5 per 1000 for Canada.

Significant investments have been made to improve the health of Aboriginal Canadians in the past two years. The government has been working with Aboriginal communities on the implementation of the Aboriginal Diabetes Initiative, as part of the overall Canadian Diabetes Strategy, with over 600 communities participating in the development of programs that emphasize the importance of healthy eating, active living and understanding of risk factors.

The 2001 Federal Budget provided funding to expand Early Childhood Development programming, such as Aboriginal Head Start and the prevention of Fetal Alcohol Spectrum Disorder.

Budget 2003 provided \$1.3 B over five years to improve health care services for First Nations and Inuit — including enhancement of nursing services, primary health care, data collection and analysis, and a new immunization strategy for young First Nations children. The Budget also provided resources to improve the quality of drinking water in First Nations communities on reserve.

TUBERCULOSIS ELIMINATION STRATEGY— REQUEST FOR REVIEW

(Response to question raised by Hon. Wilbert J. Keon on March 10, 2004)

Tuberculosis (TB) is not solely an Aboriginal issue.

TB continues to be a problem in North America for a number of reasons:

- TB is endemic in many countries. Canada has high rates of immigration, and despite pre-immigration screening, the majority of active cases continue to be in the foreign-born Canadian residents and citizens.
- There is still endemic TB in populations such as in First Nations and Inuit.
- HIV and TB have a synergistic relationship (1/3 of the people who die worldwide of AIDS, actually die of TB). HIV decreases a person's immunity and their ability to fight TB infection. Populations prone to HIV, such as intravenous drug users, often live in crowded conditions which facilitate the transmission of TB.
- Often, populations at greatest risk for active TB disease are highly mobile, making treatment and outbreak control challenging.

The TB Elimination Strategy has had ongoing reviews by Health Canada since its inception in 1992. A result of this has been the creation of the Strategic Community Risk Assessment and Planning for TB Elimination (SCRAP-TB) tool.

SCRAP-TB is a tool to enhance community capacity for TB prevention and control. It is currently being piloted in representative communities across the country. A final report on the pilot is due in March 2005.

The First Nations and Inuit Health Branch (FNIHB) of Health Canada has been active in addressing the problem of TB in aboriginal communities. FNIHB funding supports regional TB prevention and control activities, outbreak investigations and response, and research regarding TB in aboriginal populations. FNIHB currently has several TB initiatives including innovative epidemiologic analyses of TB data, and economic modeling and projection of costs for future TB control programmes.

AUDITOR GENERAL'S REPORT— MEDICAL DEVICES PROGRAM

(Response to question raised by Hon. Marjory LeBreton on March 30, 2004)

The upcoming First Ministers' Meeting will discuss the sustainability of the health care system among other priority issues that First Ministers will define together. Long-term sustainability of the health care system is a shared objective

of both levels of government and involves both financial investments and structural reforms of the health care system. The First Ministers' Meeting is not expected to deal with detailed program issues, such as those related to medical devices.

NATIONAL STRATEGY FOR CANCER CONTROL—FUNDING

(Response to question raised by Hon. Michael A. Meighen on April 1, 2004)

The government of Canada is well aware of the growing burden of cancer in Canada — a burden that is rising due to an aging and growing population, exacerbated by the increasing complexity and cost of new technologies, therapeutics and treatments.

Health Canada has been working with provincial/territorial government and non-government stakeholders to develop a plan to deal with the current and future burden — the Canadian Strategy for Cancer Control.

In the most recent Budget, the Minister of Finance announced new investments in public health including the creation of a Public Health Agency. This Agency will ensure that Canada has effective surveillance and crisis response systems to better deal with major public health problems due to infectious and chronic diseases, such as cancer. Investments in disease strategies, such as cancer control, will need to be positioned within the context of the Canadian Public Health Agency's mandate which includes the management of chronic disease, in order to effectively implement the blueprint for cancer control.

Federal research funding through the Canadian Institutes of Health Research (CIHR) provided \$84 million in 2003-2004 to fund cancer research projects in universities, cancer research chairs, research institutes and teaching hospitals across Canada.

AGRICULTURE AND AGRI-FOOD

GENETICALLY MODIFIED GRAINS— MANDATORY LABELLING

(Response to question raised by Hon. Mira Spivak on March 24, 2004)

The Government of Canada has in place a regulatory process that carefully assesses potential environmental, human health or animal health risks before any product of biotechnology is permitted for sale in Canada.

Health Canada is responsible for establishing standards and policies that address the safety of all foods, including those derived from biotechnology. Division 28 of the *Food and Drug Regulations* requires that the Department be notified by the company wishing to sell the product prior to marketing or advertising a novel food. Pre-market

notification permits the Department to conduct a safety assessment of all biotechnology-derived foods to demonstrate that a novel food is safe and nutritious before being allowed for sale.

The Canadian Food Inspection Agency (CFIA) shares responsibility for the regulation of products derived from biotechnology, including plants, animal feed and animal feed ingredients, fertilizers and veterinary biologics. For genetically modified crop plants, the CFIA assesses the potential risk of adverse environmental effects, including the potential impact of the novel plant on biodiversity, authorizes and oversees import permits, confined trials, unconfined release and variety registration.

Roundup Ready wheat was submitted to Health Canada for review in July 2002, as required under Division 28 of the *Food and Drugs Regulations*. The evaluation of Roundup Ready wheat is proceeding as per Health Canada's standard operating procedure for novel foods. Foods from this wheat variety are not permitted for sale in Canada until it can be concluded that there are no safety concerns.

With regards to the issue of labelling, Health Canada and CFIA share the responsibility for federal food labelling policies. Health Canada is responsible for setting food labelling policies with respect to health and safety matters, while the CFIA is responsible for the development of non-health and safety food labelling regulations and policies.

As with all foods, including foods derived from biotechnology, Health Canada requires special labelling to address health and safety issues which might be mitigated through labelling, such as identifying the presence of an allergen. Labelling is also required to identify compositional or nutritional changes. In these situations, labelling is required to alert consumers or susceptible groups in the population at large. The government's position regarding labelling products derived from biotechnology is consistent with its policy regarding the labelling of all foods. This position has not changed.

The federal government recognizes that labelling foods to indicate whether they are derived from biotechnology or not has become an important issue for consumers. To this end, Health Canada worked actively with the Canadian Council of Grocery Distributors and the Canadian General Standards Board to develop a Canadian voluntary standard for labelling of genetically engineered foods, along with consumer groups, food companies, producers, environmental groups, general interest groups and other government departments. Consensus on this standard has recently been reached.

The standard developed through this initiative is currently being considered by the Standard Council of Canada for adoption. Once reviewed, adopted and published as a national standard by the Standards Council of Canada, it will provide guidance to food companies to address the consumers demand for the labelling of genetically engineered foods in Canada. More detail on this initiative is available on the Public Works and Government Services Canada website at:

www.pwgsc.gc.ca/cgsb/032_025/intro-e.html.

The issues surrounding genetically modified foods are complex and include scientific as well as social and ethical aspects. The Canadian Biotechnology Advisory Committee (CBAC) — an advisory committee of experts — was created in 1999 to provide independent advice to Ministers and engage Canadians in a dialogue on the full range of issues related to the development of biotechnology.

In August 2002, as part of its mandate, CBAC released a report entitled: *Improving the Regulation of Genetically Modified Foods and Other Novel Foods in Canada*. This report also addresses issues such as labelling these foods as a means of assisting Canadians to make informed food choices as well as other social and ethical considerations. The government has examined this report and will be releasing a detail response to the recommendations later this Spring.

INDIAN AFFAIRS AND NORTHERN DEVELOPMENT

RESERVATIONS— BUILDING OF PRIVATE HEALTH CLINICS

(Response to question raised by Hon. Herbert O. Sparrow on April 21, 2004)

- The *Canada Health Act* (CHA) is Canada's federal legislation for publicly funded health care insurance. It establishes criteria and conditions related to insured health services and extended health care services that the provinces and territories must fulfil to receive the full federal cash contribution under the Canada Health Transfer (CHT).
- The criteria are: public administration, comprehensiveness, universality, portability, and accessibility.
- The public administration criterion requires that public health insurance plans be administered and operated on a non-profit basis by a public authority.
- The CHA applies to insured health services provided to all residents covered by a provincial health plan, including First Nations living on or off reserve.
- Health care delivery is primarily a provincial responsibility and facilities providing insured health services are subject to provincial law. Therefore, the development of new diagnostic services, as envisioned in the Muskeg Lake Cree First Nations proposal, must be done in conjunction with the province to ensure consistency with the relevant provincial legislation. In addition, the decision to license or contract insured health services rests with the province.

ORDERS OF THE DAY

PUBLIC SAFETY BILL 2002

THIRD READING—DEBATE SUSPENDED

On the Order:

Resuming debate on the motion of the Honourable Senator Day, seconded by the Honourable Senator Léger, for the third reading of Bill C-7, to amend certain Acts of Canada, and to enact measures for implementing the Biological and Toxin Weapons Convention, in order to enhance public safety.—(*Pursuant to the Order adopted on April 29, 2004, all questions will be put to dispose of third reading of this bill at 5:00 p.m.*)

Hon. Terry Stratton: Honourable senators, I am pleased to join in the third reading debate on Bill C-7, the public safety bill. This bill seeks to enhance security measures and put in place mechanisms to ensure that people are protected against terrorist attacks. We must ensure that there is accountability for those actions taken to protect Canadians.

If Bill C-7 passes, there will be new instruments and processes put in place as a result. We will have a new regulatory instrument called a "security measure," an increase in the number of departments that can use interim orders to pass regulations without going through the normal regulatory process. This process, according to the Privy Council Office, is "to ensure that use of the government's regulatory powers results in the greatest net benefit to Canadian society."

Unfortunately, we have not had the opportunity to benefit from the knowledge and testimony of lawyers and people familiar with the legislative drafting process to discuss broadly the implications of these new legislative instruments.

Honourable senators, the amendments to the Aeronautics Act comprise almost half of the bill and confer new powers on the Minister of Transport and, in some cases, his deputy or delegate, to impose interim orders, security measures or emergency directions.

Security measures are a new phenomenon to the Aeronautics Act. These measures implement anything that would be subject to an aviation regulation if secrecy were required. Therefore, if there is a concern that actions taken under a public regulation would compromise the security of an airplane, airport, passengers or crew members, the Minister of Transport can put in place a secret security measure. Before making the security measure, the bill requires the minister to consult with any person or organization he or she considers appropriate. However, if the security measure is needed immediately, the consultation is not mandatory. Once the minister is assured that the security of the aircraft or airport will not be compromised by publicizing the security measure, it is published in the *Canada Gazette* within 23 days.

However, the minister is not compelled to publicize the security measure if there is a concern about aviation, airport security or

safety of the public. In effect, we could have a situation where an emergency relating to an airport or air traffic occurs and no one can talk about it. The minister can put into effect measures to mitigate this emergency and does not have to consult or tell anyone until 23 days after he or she feels the crisis is over and there is no longer a security risk. There could be situations where Canadians would never know about a security measure being implemented. The security measure may apply in lieu of a regulation or in addition to a regulation, and, if there is a conflict between an aviation security regulation and a secret security measure, the secret security measure prevails. This incredible power can be delegated to the Deputy Minister of Transport, a public servant, who does not have to report to Parliament or to the Canadian public for actions so taken.

Simon Potter, past president of the Canadian Bar Association, told the Standing Senate Committee on Transport and Communications the following:

Just as an example, there are powers in this proposed statute to do things that normally would be done by statute, not only just by regulation, which would never come before the Senate, but by a new animal, called a "ministerial measure," which does not even have to be approved by cabinet. We find these powers to be extremely broad and that the invasion of privacy is serious enough that we are indeed on the lip of a very slippery slope; we recommend that Canada step back.

• (1500)

The Coalition of Muslim Organizations submitted to the committee a brief and joined with the Canadian Bar Association in calling for appropriate checks and balances in the system "to ensure that extraordinary powers are not exercised outside the scrutiny of Parliament."

Honourable senators, I would also like to review another area where additional powers are given to a minister. Under the Citizenship and Immigration Act currently, the minister can enter into agreements with the provinces or with a foreign government for the coordination and implementation of immigration policies. Bill C-7 will expand the minister's powers in this subsection to collect, use and disclose immigration information. As well, another new legislative animal in the form of an "arrangement" has been introduced, and like the security measures discussed earlier, it, too, does not require cabinet approval.

Mr. Daniel Jean, Assistant Deputy Minister of Policy and Program Development at Citizenship and Immigration Canada, gave the following explanation:

An agreement is legally binding, which is the main difference. Because it is legally binding, we must appear before the Governor in Council.

An arrangement is not legally binding. It is a more informal type of arrangement. It is done on the mutual intent of the parties to live up to the terms of reference of the agreement. However, it is not legally binding.

Part 11 of the bill was also an area that created numerous questions for the committee. On page 56 of Bill C-7, the Immigration and Refugee Protection Act is amended to add subsection 150.1 to deal with the making of regulations on the sharing of information. Information could be disclosed for the purposes of national security, the defence of Canada or the conduct of international affairs, including the implementation of an agreement or arrangement made under section 5 of the Citizenship and Immigration Act.

Senator Day raised questions about the phrase "conduct of international affairs." In committee on March 16, he said:

That phrase "conduct of international affairs" scares all of us. It is a very broad term. Do we get some protection by going back to the other section that we just talked about? Can we read that "conduct of international affairs" as being for the purposes of the two acts we are dealing with and for no other purposes?

Legal counsel from the Department of Citizenship and Immigration could not immediately answer the question and in a written response said:

150.1(b) provides the ability to make disclosures outside the purposes of the Immigration and Refugee Protection Act but only for very limited purposes, namely for the purposes of national security, the defence of Canada and the conduct of international affairs, including the implementation of an agreement entered into under section 5 of the Department of Citizenship and Immigration Act.

The letter goes on to say that:

Border security, immigration enforcement and intelligence and anti-terrorism have by their very nature international components. In order to fulfil its border security mandate, it is critical that the CBSA (the Canadian Border Services Agency) be able to cooperate with its international partners. This co-operation includes the sharing of information.

Therefore, honourable senators, I am no further ahead as to what information would be collected under the term "international affairs." Mr. Ziyaad Mia of the Muslim Lawyers Association and Coalition of Muslim Organization, noted that passenger information collected under clause 4.82 of the act can be given to the Minister of Citizenship and Immigration, who in turn can collect, use, and disclose information for the conduct of international affairs under Part 11 of the bill. Mr. Mia said, "Start with transportation security, the next thing you know, you are in Syria."

Honourable senators, yesterday in *The Globe and Mail* we learned that auditors discovered that the RCMP often accepted sensitive information from the Canada Customs and Review Agency by facsimile or mail and placed it in operational files without giving it proper security classification. The article noted that there is a poor understanding of the overall policy governing exchanges of information and that while the review uncovered no

breaches of the Income Tax Act or the Canada Customs Act, there were clear violations of government security for federal agencies. The RCMP is now taking an inventory of memorandums of understanding between organizations "so we know exactly how many agreements there are across the country."

Honourable senators, despite current problems with exchanges of information, we will expand on the collection and disclosure of information through this bill, not only amongst Canadian government departments but also with foreign governments for reasons as unspecified as "international relations."

Senator Jaffer asked the Minister of Public Security and Emergency Preparedness about the rush to pass this bill. She said, on March 30:

I want to know why the rush. We will have a review of Bill C-36 this year. We will have the Arar inquiry. I am not talking about the entire act or getting everything about which Minister Valeri spoke. Deputy Prime Minister, why not wait for clause 4.8? Why share information with foreign countries when we have had a challenge.

Senator Jaffer went on to say:

I am talking about having the specific sections that deal with sharing information. What is the point of having the Arar inquiry if we pass the law before the inquiry?

Honourable senators, I am not certain that information collected under section 5 of the Department of Citizenship and Immigration Act will not be disclosed to foreign countries for the purposes other than fighting terrorism and ensuring our national security, because I still do not know what "international affairs" comprises. For that reason, I believe we should remove that phrase from Part 11 of the bill.

Many witnesses have said we should be reviewing all of the terrorism measures prior to putting in place new legislation. Many said that we should have conducted the review of Bill C-36 before this bill was put into effect. We recognize that in this age of terror there may be emergencies that require speed and, sometimes, extraordinary measures. However, if we are to allow extraordinary measures, we must ensure we have in place extraordinary accountability of that extra exercise of power.

Ministers accountable to Parliament and accountable to the Canadian public should be the only ones to have the power to put in place extraordinary security measures or interim orders. This power should not be delegated. Personal information collected for the purposes of screening immigrants and refugees should not be used for an undefined term such as "international affairs." The government should either remove the term "international affairs" or provide a precise definition.

MOTION IN AMENDMENT

Hon. Terry Stratton: Therefore, honourable senators, I move, seconded by Senator LeBreton:

That Bill C-7 be not now read a third time but that it be amended,

(a) in clause 2, on page 2,

(i) by replacing line 6 with the following:

“under subsection 6.41(1);” and

(ii) by replacing line 12 with the following:

“under subsection 4.72(1);”;

(b) in clause 3, on page 2, by replacing line 37 with the following:

“to make an order, other than an interim order, or an”;

(c) in clause 5,

(i) on page 6, by deleting lines 18 to 44,

(ii) on page 7, by deleting lines 1 to 6, and

(iii) on pages 7 and 8, by renumbering sections 4.74 to 4.771 as sections 4.73 to 4.77 and any cross-references thereto accordingly;

(d) in clause 11,

(i) on page 20, by deleting lines 40 to 46, and

(ii) on page 21,

(A) by renumbering subsection (1.2) as subsection (1.1) and any cross-references thereto accordingly,

(B) by replacing line 2 with the following:

“Minister must”, and

(C) by replacing line 4 with the following:

“the Minister considers appropriate”; and

(e) in clause 72, on page 56, by replacing lines 10 and 11, with the following:

“Canada or the implementation of an”.

• (1510)

The Hon. the Speaker: Honourable senators, it is moved that Bill C-7 be not now read a third time but that —

Some Hon. Senators: Dispense!

The Hon. the Speaker: Does any senator wish to speak?

Senator Jaffer, do you wish to speak? I am alternating back and forth.

Senator Jaffer: I am not speaking to the amendment. I am speaking to the main motion.

Senator Lynch-Staunton: Wait your turn.

Hon. Marjory LeBreton: Honourable senators, I am joining in the debate on Bill C-7, the Public Safety Bill, 2002, to speak primarily about an issue that has been of concern to many, that being the interim orders that are contained in this bill.

Before beginning my remarks, I do want to state that I, like most honourable senators, support efforts to improve the ability of the Canadian government to keep our citizens safe and secure from terrorism.

Raising concerns about the increase in executive power contained in this bill is not complacency or innocence about the reality of terrorism. Our own Standing Senate Committee on National Security and Defence has pointed out the many areas where Canada must increase resources in order to defend itself against terrorism. As such, the recent commitments of further funding for national security are welcomed.

With respect to Bill C-7, honourable senators will know that interim orders are enabled in parts 1, 3, 6, 9, 10, 15, 18, 20, 21 and 22 of Bill C-7. These new powers are contained in the Aeronautics Act, the Canadian Environmental Protection Act, 1999, the Department of Health Act, the Food and Drugs Act, the Hazardous Products Act, the Navigable Waters Protection Act, the Pest Control Products Act, the Quarantine Act, the Radiation Emitting Devices Act and the Canada Shipping Act. Only the Aeronautics Act and the Canadian Environmental Protection Act already contain provisions for interim orders.

Interim orders are, in effect, emergency regulations implemented without the benefit of the regulatory processes that have been recently outlined to honourable senators. It has been pointed out many times by various witnesses before the Standing Senate Committee on Transport and Communications that interim orders can only be made in areas that would normally be subject to a regulation.

Interim orders enable ministers to put into effect immediately regulations to deal with an emergency situation. The orders must be confirmed by the Governor in Council within 14 days after being made, are in effect for one year, are exempt from sections 3, 5 and 11 of the Statutory Instruments Act, must be published in the *Canada Gazette* within 23 days after being made and must be tabled within each House of Parliament within 15 days after it has been made. If the House is not sitting, the order is to be tabled with the clerk.

Honourable senators will recall that section 3(2) of the Statutory Instruments Act allows the Clerk of the Privy Council and the Deputy Minister of Justice to examine proposed regulations to ensure that:

(b) it does not constitute an unusual or unexpected use of the authority pursuant to which it is to be made;

(c) it does not trespass unduly on existing rights and freedoms and is not, in any case, inconsistent with the purposes and provisions of the *Canadian Charter of Rights and Freedoms* and the *Canadian Bill of Rights*;

The question that has been raised at every stage of this bill is why do we need interim orders when we have provisions under the Emergencies Act to deal with public welfare emergencies that could include natural disasters, disease, accidents or pollution, public order emergencies which deal with the existence of serious threats to the security of Canada, international emergencies that would include other countries that are threatened for acts of intimidation or coercion, or, finally, a war emergency?

During our committee's examination of Bill C-7, officials from the Department of Transport spent some time explaining why the Emergencies Act could not be the method used to immediately develop regulations. In fact, they produced a paper for the use of the Senate. They contended that interim orders under Bill C-7 had as much or more parliamentary supervision than regulations made under the Emergencies Act. I contend that is something that could be examined further.

Honourable senators should be reminded that the Emergencies Act provides for the general principle that the government should be authorized to deal with emergencies on a temporary basis, subject to the supervision of Parliament. Parliamentary supervision under the interim orders in this bill lies with the Joint Committee for the Scrutiny of Regulations, which is not required to examine any particular interim order but may do so once the orders are tabled in Parliament. Under Bill C-7, there is no provision to recall Parliament to have this committee sit and examine the interim orders. Under the Emergencies Act, there is a provision for the recall of Parliament.

During committee examination, Mr. John Read of the Department of Transport discussed the 9/11 emergency in relation to the issuance of interim orders. He said:

First off, not to miss the point, when the interim order is made, it immediately stands referred to the Standing Joint Committee of the Senate and the House of Commons for the Scrutiny of Regulations. By that amendment last March, that committee can recommend it be abolished.

The time frames that we have are based, I guess, on the fact that we recognized during the events of September 11 that the people who are the experts on the emergency are fully immersed in the emergency. I was one of those people; and one of the best things that happened to us was our deputy said we did not have to answer all of these questions we normally get by hand, and that was a good five-day period — we were fully occupied.

If you have seen the poor fellow who is doing the mad cow disease, and some of those other people who are terribly overworked, they do not have time to withdraw to write out

this careful reasoning and so forth. We had to have a period of time before we had to go to the Governor in Council with all the argumentation written down and all the proper formats, et cetera.

Therefore, 14 days was the period chosen. Fifteen days to Parliament was the next period chosen. We could give you the interim order instantly on being made, obviously. However, the concept here is that when we go to Parliament to report the content of the interim order, we would want to explain the rationale and all the rest, which is why 15 calendar days was chosen. Twenty-three was chosen for publication in the *Canada Gazette*, because that is the shortest time that we know we can always get. It is published every 23 days.

With all due respect to Mr. Read, honourable senators, and to his colleagues at Transport Canada who did a superb job turning back planes and landing them during the 9/11 emergency, I am shocked that 14 days to have an interim order approved by cabinet, and 15 days before Parliament gets to see it, was chosen in order to give public servants enough time to format their arguments. If there is an emergency and emergency measures are being put in place, should the rationale for these measures not be fairly obvious?

If we look at the Emergencies Act, an emergency declaration is effective the day it is issued and expires at the end of 90 days for public welfare emergencies, 30 days for public order emergencies, 60 days for international emergencies and 120 days for war emergencies.

A motion for the confirmation of the emergency would have to be tabled in Parliament within seven sitting days of its issuance. If 10 or more members of the Senate or 20 or more members of the House of Commons sign a motion for the revocation of a declaration of emergency, that motion would have to be taken up and debated within six days of being filed.

Each time the government wants to extend the declaration of emergency, they have to lay before each House of Parliament a motion either amending or extending the original order within seven days.

The Emergencies Act says that an order made under its provision must come to Parliament within two sitting days of being made. A joint committee of Parliament must consider the orders within 30 days and a motion adopting, amending or revoking the order must be made.

Honourable senators, Bill C-7 provides ministers and deputy ministers with the ability to make regulations that do not have to be approved by cabinet for 14 days or seen by Parliament for 15 days. I still do not understand the reluctance to use the Emergencies Act, which would provide for parliamentary oversight. Instead we will institute new legislative measures and powers through Bill C-7 to deal with emergencies.

• (1520)

Simon Potter, of the Canadian Bar Association, said at committee — and I quote:

However, the position of the Canadian bar is that these are very dramatic powers and quite a departure from the normal way of doing things. They cover the whole regulatory ambit under those statutes. They are very broad powers. This is a dramatic change that we are considering. We suggest taking a step backward.

I believe the Senate should have heard testimony comparing the Emergencies Act and the interim orders. We should have heard from legal experts outside of the departments directly affected by the provisions of the bill.

Honourable senators, the issue of interim orders is one of power and supervision. We need to involve the Cabinet and Parliament in examining these interim orders at a much earlier time. If there is an emergency that requires an interim order, it should at least be examined and approved by Cabinet within two days and brought to Parliament within three days. At least that would provide some scrutiny of the vast powers contained in interim orders.

MOTION IN AMENDMENT

Hon. Marjory LeBreton: Therefore, honourable senators, I move, seconded by Senator Stratton:

That Bill C-7 be not now read a third time, but that it be amended:

(a) in clause 11, on page 21,

(i) by adding after line 5 the following:

“(1.1) Subsection 6.41(2) of the Act is replaced by the following:

(2) An interim order has effect from the day on which it is made, as if it were a regulation made under this Part, and ceases to have effect 48 hours after it was made unless it is approved by the Governor in Council within that 48 hour period.”, and

(ii) by replacing line 17 with the following:

“tabled in each House of Parliament within three”;

(b) in clause 27,

(i) on page 30, by replacing line 8 with the following:

“Council within 48 hours after it is made.”, and

(ii) on page 31, by replacing line 8 with the following:

“tabled in each House of Parliament within three”;

(c) in clause 34,

(i) on page 34, by replacing line 13 with the following:

“(a) 48 hours after it is made, unless it is”, and

(ii) on page 35, by replacing line 11 with the following:

“tabled in each House of Parliament within three”;

(d) in clause 66, on page 50,

(i) by replacing line 4 with the following:

“(a) 48 hours after it is made, unless it is”, and

(ii) by replacing line 39 with the following:

“tabled in each House of Parliament within three”;

(e) in clause 67,

(i) on page 51, by replacing line 19 with the following:

“(a) 48 hours after it is made, unless it is”, and

(ii) on page 52, by replacing line 19 with the following:

“tabled in each House of Parliament within three”;

(f) in clause 68,

(i) on page 53, by replacing line 1 with the following:

“(a) 48 hours after it is made, unless it is”, and

(ii) on page 54, by replacing line 2 with the following:

“tabled in each House of Parliament within three”;

(g) in clause 69,

(i) on page 54, by replacing line 18 with the following:

“(a) 48 hours after it is made, unless it is”, and

(ii) on page 55, by replacing line 13 with the following:

“tabled in each House of Parliament within three”;

(h) in clause 95,

(i) on page 71, by replacing line 17 with the following:

“(a) 48 hours after it is made, unless it is”, and

(ii) on page 72, by replacing line 16 with the following:

“tabled in each House of Parliament within three”;

(i) in clause 96,

(i) on page 72, by replacing line 32 with the following:

- “(a) 48 hours after it is made, unless it is”, and
- (ii) on page 73, by replacing line 27 with the following:
- “tabled in each House of Parliament within three”;
- (j) in clause 99,
- (i) on page 75, by replacing line 11 with the following:
- “(a) 48 hours after it is made, unless it is”, and
- (ii) on page 76, by replacing line 5 with the following:
- “tabled in each House of Parliament within three”;
- (k) in clause 102,
- (i) on page 77, by replacing line 18 with the following:
- “(a) 48 hours after it is made, unless it is”, and
- (ii) on page 78, by replacing line 19 with the following:
- “tabled in each House of Parliament within three”;
- (l) in clause 103, on page 79,
- (i) by replacing line 1 with the following:
- “(a) 48 hours after it is made, unless it is”, and
- (ii) by replacing line 37 with the following:
- “tabled in each House of Parliament within three”;
- (m) in clause 104,
- (i) on page 80, by replacing line 27 with the following:
- “(a) 48 hours after it is made, unless it is”, and
- (ii) on page 81, by replacing line 28 with the following:
- “tabled in each House of Parliament within three”;
- (n) in clause 105,
- (i) on page 82, by replacing line 27 with the following:
- “(a) 48 hours after it is made, unless it is”, and
- (ii) on page 83, by replacing line 17 with the following:
- “tabled in each House of Parliament within three”;
- and
- (o) in clause 111.1,
- (i) on page 101,
- (A) by replacing line 4 with the following:

- “(a) 48 hours after it is made, unless it is”, and
- (B) by replacing line 39 with the following:
- “tabled in each House of Parliament within three”;
- (ii) on page 102, by replacing line 19 with the following:
- “(a) 48 hours after it is made, unless it is”, and
- (iii) on page 103, by replacing line 16 with the following:
- “tabled in each House of Parliament within three”.

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, on a point of order, we cannot have two amendments on the floor at the same time. Therefore, we have to dispose of Senator Stratton's amendment before we consider Senator LeBreton's amendment. I understand that we could vote on all of them, if standing votes are required, at the same time, as the house order indicates. However, to deal with them on the floor, we have to deal with each one.

Hon. Terry Stratton: Honourable senators, it is my understanding from our discussions last week that we would make our speeches, propose our amendments, and then vote on all amendments and on the bill at 5:30 p.m. Was that not the agreement?

Senator Rompkey: Yes, it was the agreement that all issues would be put at 5:30 p.m. I am in the hands of the house, but I wanted to point out that the proper order would seem to be to have at least one voice vote on each amendment and dispose of it before we dealing with the next.

Senator Kinsella: We are stacking these votes.

Senator Rompkey: We are agreed to have all the amendments disposed of 5:30 p.m., as per the agreement.

Hon. Marcel Prud'homme: Honourable senators, I am glad that Senator Stratton has raised this question. I believe I referred to this subject last week, when I said that it was difficult to comprehend how the house does business. Now, more than ever, I think it is becoming totally illogical.

The rules state that, although there is an agreement, when an amendment is moved any senator may speak against it, after which the house disposes of the amendment. Then, the main motion or the subamendment is considered. The subamendment is then disposed of and a new subamendment may be put forward, but each one must be disposed of individually because it could change the ultimate outcome if one of the subamendments or amendments or new subamendments or new amendments to the bill were to pass. It could change the approach to the final vote.

I would hope that, in the future, although it is not possible for today, those who deal with these matters would take that into strong consideration for the next Parliament. When these agreements are made, it must be considered that the outcome of

an amendment could change the decision of some senators at the end of the day. I hope that this does not restrict a senator from speaking to the item. We are able to speak once on an amendment, but when the amendment is passed, disposed of or rejected, any senator may speak to the main motion once again. If the main motion is again amended or subamended, any senator may speak again, if he or she so wishes. However, with a 5:30 p.m. deadline, we are forced, regardless of what happens, to vote on every amendment and every subamendment, as well as main motion, the result of which can only be total chaos, because we do not know what we will ultimately vote on.

• (1530)

I am in that situation where I would have liked to speak on some of the amendments but have been advised by some that, having spoken already — and I do not even remember on which amendment; it may have been on Senator Nolin's — I cannot do so. I would hope that in the future — and we talk about the Clarity Act — we have some clarity in what we are doing when we make an arrangement.

I am not accusing anyone of anything. I am just a witness to what is happening, pointing out the illogical approach of saying that, regardless of anything, we will vote on everything at the end, without knowing exactly if we would vote the same way if we had disposed of the subamendment, the amendment or the new subamendment.

Hon. Anne C. Cools: Honourable senators, I wish to support what Senator Prud'homme has said. I was most interested in what Senator Rompkey said, because for many years now the government has supported this, for lack of a better word, haphazard way of proceeding. We all know that the proper way of proceeding is for the house to express an opinion on each question, each amendment, as it comes up, in the proper order that it comes along.

With respect especially to our process on closure, where everyone is speaking to everything, every order simultaneously, and then at the end there is a collection of votes, I have always found it extremely improper and hard to follow. In a strange sort of way, it makes a mockery of the process. In other words, people are just speaking, knowing full well that the opinion and the outcome is predetermined. I wish that we could take a look at this some time, because I do not like it.

This was crystal clear, for example, on Bill C-250 two weeks ago when we started to proceed in an ordinary way. Many senators were disarmed and derailed and did not know what was happening, because they were simply unaccustomed and not habituated anymore to proceeding in the appropriate way.

Honourable senators, this chamber has a lot of introspection to do, and this is one of the issues it has to look at.

The second issue I should like to speak to is the constant mention of agreements and private agreements between, I guess I would call it, party leaders. To my mind, I am always a little

disconcerted by formal reference to these agreements back and forth. I understand that leaders talk, but so much of the business of this place has been displaced by negotiation.

I am always very cautious and vigilant when I hear these agreements being referred to, as they just were, where Senator Stratton asked Senator Rompkey whether such and such was agreed to. Sooner or later, honourable senators must agree that if we talk about these agreements everyone should know what the agreements are; they should be put before the house in some formal way so that we can really know what we are talking about. I do not think it is proper in any system that some people have secrets or knowledge that others do not have. I find it very disconcerting.

There is so much here procedurally that we need to look at. Perhaps, Your Honour, when we do find people alluding to or mentioning these agreements, we should look at it a little askance.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, on the point of order that has been raised, the situation is not that complex. The mechanism of time allocation has two vehicles to achieve its end. In one, the government brings in notice of time allocation, due notice is given, there is a debate and a decision is taken by the house.

The other vehicle for achieving time allocation is when the government side and the official opposition reach an agreement. The rules are very clear, and that is what has happened in this case. An agreement was reached between the government side and the official opposition. There is no secrecy; it is very clear. It was agreed that, at 5:30 p.m. today, the debate will have been deemed to be concluded and all votes necessary to dispose of the matter will be taken.

That implies, and of course the practice has been, that we stack amendments, so that all honourable senators can speak and bring forward the amendments they wish to bring forward. Therefore, at 5:30 p.m., there will be a series of votes. In effect, it is understood — this side understands — that we are stacking amendments as we proceed. It is perfectly clear in the rules, in my opinion.

Senator Rompkey: Honourable senators, I want to address the latter part of Senator Cools' remarks, because the same issue was raised last week, and I spoke on it at that time. The first point I made was that I understood that the job of house leaders was to advance the business of the Senate on behalf of all senators. I cannot speak for the opposition, and I should not be discussing caucus matters on the floor of the Senate, but those who were in caucus this morning know that those matters were discussed in caucus this morning. Therefore, all senators had a chance to know the objective of the day, the order of the day and what we were trying to accomplish through the agreement that we had made. I just wanted to make that point.

This is not a secret meeting behind closed doors of people who are furtively trying to advance their own causes. This is a meeting by duly appointed officials to advance the business of the house. I think Senator Prud'homme will agree that he has been consulted on the course of action that is anticipated.

I wanted to make that point, because it came up last week and I think it should be clearly understood that the business is operated on behalf of all senators on both sides.

Senator Cools: Honourable senators, in respect of Senator Rompkey's remarks about secrecy, when last I checked caucus was a secret society. Caucus is a secret society; it has no formal existence, no formal proceedings. It is a secret society.

In addition to that, my understanding of the meetings between the Leader of the Government in the Senate and the Leader of the Opposition is that they, too, are quite secret. Hence, the entire process is a secretive process. I am not complaining about that; I am saying that if it is a secret, keep it a secret. However, once an agreement has been alluded to on the floor of the chamber, and aspects of it have been mentioned, then there is a duty to make it public. Either it is secret or it is public. One has to be very clear about that.

In any event, honourable senators, these closure processes are insufficient to do the business of this chamber. Senator Kinsella spoke about the phenomenon of stacking amendments because that is the only way everyone gets to speak. The real reason that the confusion comes, and the stacking of amendments occurs, is because the time allocated is simply too short. I think we must deal with this.

For example, two weeks ago, when the ethics bill passed through this place, I wanted to speak to the main motion. I never was able to get back to speak on the main motion.

Honourable senators, I think we should be crystal clear that six hours or three hours or whatever time is allocated is simply insufficient. Perhaps those closure motions and rules should be re-examined, to at least choose an amount of time that is reasonable and realistic in order that honourable senators can speak in a proper way.

Honourable senators, moments ago, when I was speaking about the question of the agreements, I said that I am deeply concerned that much of the business here is handled by negotiations and not by direct public debate.

Another question I should like to take up with Senator Rompkey is this: I believe he said a few moments ago that these meetings occur to move the business of the Senate along. Well, I am here to tell honourable senators that I have heard Senator Rompkey say time and time again that he is only in charge of government business. Let us be clear: He is not looking after the business of all senators; Senator Rompkey is looking after the interests of the government. I dispute his position, because the Leader of the Government in the Senate, in many jurisdictions, is

called the Senate leader, so that individual is the leader of the whole Senate. Currently, this particular leadership, and their predecessors, distance themselves from responsibility.

• (1540)

Some Hon. Senators: Order!

Senator Cools: I object, Your Honour. There is nothing out of order. Senator Robichaud is doing his usual hacking again. He is a hound dog, this guy. He is a predatory fellow. He uses the term "order" to get the Speaker to his feet to shut me up. It is Senator Robichaud who is out of order. If he has a point of order, he can get on his feet and speak. He hardly speaks here. He just sits there like Godzilla, kind of regulating everyone. What rubbish and absolute nonsense! I have never heard such nonsense. If he has something to say, get up and say it. He has nothing to say. His position is totally, morally and intellectually bankrupt.

Some Hon. Senators: Oh, oh!

Senator Cools: He has nothing to say on this subject or on any other.

The Hon. the Speaker: Senator Prud'homme is next on my list.

Senator Prud'homme: I feel a little troubled. I am usually known as a peacekeeper. I am embarrassed to be part of this debate at this time, except to say about these agreements that, yes, a word in English was mentioned to me —

Senator Rompkey: Consulted.

Senator Prud'homme: I wish this word would disappear. For 40 years, I have objected to that word being used, especially when we say, for example, "After consultation, we will appoint a Chief Electoral Officer for Canada and a Privacy Commissioner." Sometimes consultation means information.

I do not want to debate with the fine Senator Rompkey. However, let us say that we were informed more than we were consulted because consultation means much longer discussion. To be informed is a gracious gesture that facilitates the workings of the Senate. If you are informed, there is the chance that you will not object when the time comes to take the ultimate decision. However, we are not privy to such discussions, otherwise I would have objected.

Your Honour, please note what I am about to say. I am sure that, some day, a senator will take his or her full 15 minutes, or whatever the allowed time is, on each and every amendment, and he or she will not be told, "Why do you not speak to all the amendments and subamendments together?" That would be quite cacophonous.

I want to be on record as saying that I was informed some time ago this afternoon, like Senator Plamondon, who I am sure would agree that I can speak for her on this subject, of what exactly would take place.

I prefer the word informed over the word consulted. I think we should really appease the debate a little. In the future, I think consideration should be given to what I just raised in my very calm way.

In speaking to the Commonwealth students last night, I used most of the energy I had for the week. By the way, one of our pages, Dustin Milligan from Prince Edward Island, made a fabulous presentation. Honourable senators can be proud of your page. He stole the show last night from everyone by making a presentation on behalf of the pages and on behalf of the Senate.

Hon. Senators: Hear, hear!

The Hon. the Speaker: I have listened carefully to all the interventions. I am not sure whether the Honourable Senator Robichaud wishes to rise.

[Translation]

Hon. Fernand Robichaud: Honourable senators, I simply want to say that when I called out "Order!" earlier, I thought the comments of the Honourable Senator Cools were not related to the point of order and I am really reluctant to go any further and become embroiled in the nonsense I have just heard. I will therefore stop here, honourable senators.

[English]

The Hon. the Speaker: Honourable senators, my sense of the wish of this house is that we proceed more or less as described in Senator Kinsella's description of where we were. He suggested that, in effect, we stack the amendments. Accordingly, with the agreement of the house, I will put the motion in keeping with the procedure that we have followed in the past.

Therefore, it was moved by the Honourable Senator LeBreton, seconded by the Honourable Senator Stratton:

That Bill C-7 be not now read a third time but that it be amended —

Shall I dispense, honourable senators?

Hon. Senators: Dispense.

Senator Kinsella: Honourable senators, I rise to participate in this debate on Bill C-7, which I think has been very poorly handled by the Senate. It is not one of our better pieces of work. The number of issues that have not been canvassed by the Senate are many and are important and fundamental to our Canadian system of democracy, which is unique. It is not the same system of many of our allies and very close friends both on this continent and in other parts of the world.

Notwithstanding the procedural issues that have been the subject of some attention, the substance of this bill, even at this late stage of third reading, needs to be placed on the record and be drawn to the attention of all honourable senators.

[Senator Prud'homme]

In 15 minutes, I will not have the time to canvass many of the issues that have failed to receive the kind of attention they ought to have received. However, let us understand that will be faced to adjudicate other bills like Bill C-7 in the months, if not the years, ahead.

The world in which we live today is radically different from the world we knew only five years ago. That is not only because of the tragic events of 9/11; it also speaks to the technological, high-tech, communication and intelligence world that has radically changed in the past half decade.

Honourable senators, let me draw to your attention article 17 of the International Covenant on Civil and Political Rights, an international principle that Canada accepted and embraced as its own a number of years ago. It states:

No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence...

Honourable senators, the right to privacy is under attack. It is under a severe attack in the year 2004 and will continue to be assaulted.

When honourable senators push a button on their computer in their office to send an e-mail, only God knows who will be reading it besides the intended person or persons to whom it was sent.

Honourable senators, this bill forces us to once again revisit the fundamental value of the right to privacy. We recall a number of important pieces of work that this Parliament and agencies of this Parliament have undertaken, including the former Law Reform Commission of Canada that examined the issue of the right to privacy. Those studies and that work were done in an era of only a few years ago — I am speaking of only five years ago, but so much has changed in those five years. Pressure has been placed upon our national government, not necessarily domestic pressure, but perhaps, more important, pressure caused by our interconnected world, not only in terms of telecommunication and all its ancillaries, but the interconnectedness that arises as a result of the mobility of people globally.

• (1550)

Since 9/11, we have asked what we can do to prevent other terrorist attacks. Clearly, it is a prudent question that all democratic societies need to ask. Extraordinary tools for government have been put in place — tools, however, we are not yet sure will prevent another terrorist attack, and tools, honourable senators, in my opinion more important, that we are not completely comfortable will not infringe on our civil rights, because, if they do, our freedom will mean very little. Our physical freedom will mean little if our social freedom is in chains.

Honourable senators will recall the concern and discomfort that many Canadians felt with the passage of preventative arrest measures when we were dealing with Bill C-36. There has been, in our discussion of the bill before us, considerable focus on the collection of passenger information. I wanted the bill to be

scrutinized from this civil rights perspective particularly, which is why I argued that the Standing Senate Committee on Legal and Constitutional Affairs might have been the better committee to examine the bill. That is not to say that there were not serious transportation concerns, or indeed serious security and national defence issues.

However, the bill does deal with the collection of passenger information. We know that this information will be collected by the airlines and operators of reservation systems, and that the data will be given to not only Department of Transport employees, but also, honourable senators, to employees of the Ministry of Citizenship and Immigration, employees of the Canada Customs and Revenue Agency, and employees of the Canadian Air Transport Security Authority, to ensure, they claim, security of the flight. The Commissioner of the Royal Canadian Mounted Police and the Director of the Canadian Security Intelligence Service and its designates may also receive the information. Thus, that information is dispersed to a broad spectrum of agencies. We all know what happens when information is sent out to a organization with which one is engaging in a commercial transaction: Lo and behold, within two weeks you get all kinds of entities sending you mail based on the data that you gave to someone from whom you bought a washing machine.

I am not questioning that some of these people, honourable senators, undoubtedly will require this information for transportation security. We need to be prudent. It is concerning, however, that these people can have this information for seven days and that it is not destroyed upon the completion of the trip.

Witnesses told the committee that there is no provision to advise air carriers if there is a potential threat to a flight that emanates from an examination of that data. Air Canada pointed out that, if an individual has been identified as a security threat, the airline should then be given the information and an opportunity to make a decision to cancel the flight. Why take off if there is a security threat? If you were the owner of a multi-million dollar piece of equipment, that might be the kind of prudential decision you would want to be making.

This bill specifically allows the RCMP and CSIS to check the passenger information against police databases for outstanding warrants. The proposed section 4.82 has probably caused the most anxiety and the most debate on the bill. Subsection 4.82(11) would permit the RCMP or CSIS to disclose passenger information to assist with the execution of a warrant if the passenger is wanted for an offence.

Honourable senators, if these kinds of persons are out there, this legislation will not go by unnoticed. Do not expect these people to be travelling by airplane. They will use another means of transportation.

It was made clear that this clause was not put in place to counter terrorism, the focus of this legislation. Honourable senators will recall in the news release introducing this

legislation that the government said that this bill contained key provisions to increase the Government of Canada's capacity to prevent terrorist attacks. Yet, the Deputy Prime Minister made it clear at committee that passenger information will be shared with law enforcement authorities if it was apparent that there was a warrant for that individual for a "serious crime that involves violence...or threats to the security or safety of an individual." The draft regulations given to the committee show not only a range of offences, many violent, but also, honourable senators, some such as mischief, unauthorized use of a computer, and falsification of books and documents. The commonality of these crimes is that they all carry a sentence of five years; but there is no commonality in terms of threat to life and security.

The concern expressed by many is that this is perhaps the thin edge of the wedge. Canadians obviously do not want violent criminals walking our streets, but the rhetorical question is: Do we want each and every passenger name checked against police lists?

Honourable senators, the Coalition of Muslim Organizations presented compelling arguments in their submission to the committee. I should like to go on record as complimenting that Organization for the tremendous contribution it has made and is making to the development of public policy and good legislation in Canada.

The written presentation states:

Consider the consequences of coincidental or false matches between passenger information and CSIS or RCMP terrorist or other databases. Not only would the innocent subject of a false match be unable to pursue judicial or administrative review in order to remedy the mistake, in all likelihood, they would not be aware (until it is too late) that they are subject of an official scrutiny.

[Translation]

Honourable senators, the Privacy Commissioner also expressed concerns regarding the use of databases that include information on passengers for purposes other than those that relate to transportation safety. Ms. Stoddart was concerned about the fact that some offences have absolutely nothing to do with national security or transportation safety. She reminded the committee, on March 18, that:

One of the basic fair information principles is that information collected for one purpose should be used for that purpose only.

Ms. Stoddart said that Bill C-7 violates this principle, since air carriers would collect personal information for transportation purposes, but would then turn that information over to law enforcement agencies for purposes totally unrelated to transportation.

• (1600)

Ms. Stoddart proposed a number of amendments, including some that deal specifically with the issue of databases. She indicated that her concerns could be addressed if the RCMP was limited to matching passenger information against databases specifically related to national security. Otherwise, if the RCMP is allowed to match this data against any information in its control, the commissioner feels that it will inevitably turn up people wanted on warrants for offences totally unrelated to national security or transportation safety.

[English]

Honourable senators, while we are debating the balance between privacy and security, we are not the only ones in the world community who are faced with the modern scourge of international terrorism. Many other countries and organizations face the same dilemma. I would cite the example of the dilemma tackled by the European Parliament. Many will know that the European Commission, in December of 2003, negotiated a temporary agreement with the United States of America to give airline information on passengers travelling to the United States. The agreement would allow the U.S. customs and border protection agency to scan passenger information for criminals and suspected terrorists.

The Hon. the Speaker: Honourable Senator Kinsella, your time has expired.

Senator Kinsella: I would request leave to continue.

Hon. Senators: Agreed.

Senator Kinsella: Thank you.

Honourable senators, I am attempting to draw a comparison with what other countries democratic countries are facing with what we are facing, and our Government of Canada is proposing Bill C-7 as part of the solution.

The European Community, from whom we can learn a lot, as they can learn from us, in their developed European Data Protection Law, allows authorized access to passenger data only on a case-by-case basis and only based on a particular suspicion. It is very specific. It has not thrown the door wide open. The European law also specifies that information collected for one purpose should not be used for another.

That is a most important principle, honourable senators. If, as legislators, we give this authority to invade the privacy of individuals, we should circumscribe that authority we give to the law enforcement authorities, just as provided in the European law. Many European airlines are of the opinion that the information that they would have given or that they would have to give to the United States would put them in violation of their own data protection law.

As recently as March 31, 2004, the European Parliament called upon the European Commission to renegotiate the agreement because of privacy concerns. Thus, on April 21, a mere few days ago, the European Parliament voted 276 to 260 to refer the draft or temporary agreement to the European Court of Justice. That is how seriously our friends and colleagues in Europe are taking this issue. On the one hand, there is the need for this kind of legislation but, on the other, that need must be balanced with the human right of privacy.

Honourable senators, the *New York Times* reported on April 22 that there are differences between the United States and the European Commission as to what information can be gathered in transportation databases. As well, there appears to be confusion as to whether or not the United States could pass data on to governments of other countries.

Chris Patten, the commissioner in charge of European relations, has said that these transfers are a matter of concern. It is not just Canadians who have concerns about scanning passenger databases looking for criminals wanted for offences other than terrorism. The debate on privacy is ongoing in Europe as it is in the United States.

The United States is in the process of replacing its screening process for air travel and hopes to introduce what they call the CAPPS 2, the Computer Assisted Passenger PreScreening Program. All passengers heading into the United States or travelling within the United States will be screened under CAPPS. Passengers will be required to give their name, home address, telephone number and date of birth when they make a reservation. The information will be checked against commercial databases to verify the passenger's identity and governmental terrorist watch lists and to determine if the person is a threat to security. The passenger is then assessed for risk and assigned a risk score and associated colour of yellow, green or red. Green will allow people to undergo minimum screening, yellow will require additional screening, and red could mean you are turned over to the local authorities. To date, no information has been released specifying the criteria that will be used to determine risk. The information will only be stored until the end of the passenger's itinerary, according to Brian Doyle, an official with the United States Transportation Agency.

In February last, the General Accounting Office released a report to Congress saying that a number of issues remained unsolved pertaining to CAPPS 2. These include the basic technical reliability of the system because airlines have been unwilling to voluntarily share passenger data to test the system. As well, an appeals system to deal with travellers wrongly accused has only begun to be developed and important details remain unresolved.

According to media reports, the GAO also found that the Transportation Security Administration, which is the American agency in charge of CAPPS 2, has not adequately addressed seven of eight concerns raised by the members of Congress, including preventing abuses, protecting privacy, creating an appeals process, assuring the accuracy of passenger data, testing the system, preventing unauthorized access by hackers and setting out clear policies for the system.

[Senator Kinsella]

Why am I saying all of this, honourable senators? It is because it seems to me it is not overly wise for us in Canada to rush ahead to implement legislation that could have serious ramifications on our privacy rights as Canadians. As such, I believe we should remove the clause that allows law enforcement officials to search databases for outstanding warrants because these warrants do not relate to transportation security or terrorism.

Further, we should amend the bill to put in place Ms. Stoddart's suggestion that airlines be required to tell passengers that their travel information is being passed on to government officials. I am sure that all honourable senators have heard this message when they have phoned certain organizations: "This phone call may be monitored." The private sector is required to inform the Canadian public if other people may be listening in and if other uses are being made of the information that is being given. It seems to be a kind of practice that Canadians are prepared to accept. It would be fairly benign, as far as the effectiveness of the legislation is concerned, to require the airlines to tell the passengers that the information being given may be passed on to government agencies. That was the suggestion of Ms. Stoddart. She also pointed out that clause 98 in Bill C-7 amends the Personal Information Protection and Electronic Documents Act, PIPEDA, to allow organizations to collect personal information without consent for the purposes of disclosing this information to government law enforcement and national security agencies.

This amendment in Bill C-7 should be deleted. As Ms. Stoddart stated in committee:

While we understand the intent of the proposed amendment to PIPEDA, we are not convinced it is necessary. Certainly, the broad wording causes us serious concerns. It applies to any organization subject to PIPEDA, not just air carriers. Second, it does not limit the amount of information that can be collected without consent. Finally, it does not place any limits on the sources of information.

• (1610)

With that background, honourable senators, I have the audacity, the temerity, to propose an amendment.

Some Hon. Senators: Oh, oh!

Senator Cools: Surprise!

Senator Kinsella: I propose the amendment not with great conviction, although I have often cautioned myself that it is better to speak as a historian than as a prophet. I do not have great conviction in my heart that all members will embrace this bill. However, what it will do, I think to the benefit of all members on both sides of the chamber, is place on the record an important principle. If I achieve that result, at least, that would be a contribution.

MOTION IN AMENDMENT

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Therefore, honourable senators, I move, seconded by the Honourable Senator Stratton:

That Bill C-7 be not now read a third time but that it be amended

(a) in clause 5,

(i) on page 10, by adding after line 6, the following:

"(1.1) An air carrier or operator of an aviation reservation system that obtains information from a person for the purpose of making a reservation or issuing a ticket for a flight shall, at the time of obtaining the information, advise the person that the information, together with other related travel information of a personal nature that may be under the control of the carrier or operator, may be provided or disclosed to the other persons or agencies, including governmental or law enforcement officials or agencies, for purposes of transportation security."

(ii) on page 11, by deleting lines 34 to 44,

(iii) on page 12, by deleting lines 1 to 5,

(iv) on page 14, by deleting lines 27 to 32, and

(v) on pages 14 to 16, by renumbering subsections 4.82(12) to (20) as subsections 4.82(11) to (19) and any cross-references thereto accordingly;

(b) in clause 98, on page 74, by deleting lines 16 to 31 and the headings immediately preceding line 16;

(c) by renumbering PARTS 18 to 24 as PARTS 17 to 23 and any cross-references thereto accordingly; and

(d) by renumbering clauses 99 to 112 as clauses 98 to 111 and any cross-references thereto accordingly.

The Hon. the Speaker: It is moved that Bill C-7 not be read the third time but —

Senator Kinsella: Dispense!

Hon. Mobina S. B. Jaffer: Honourable senators, I wish to speak on the main motion.

Honourable senators, September 11, 2001, was the most barbaric act committed in modern history on our continent. Our global landscape forever changed. In Canada, September 11 was also the day that changed the worlds of people who look like me.

In the last year, I have travelled across the country with Mohammed, a Canadian government employee whose name I have changed here. At the Ottawa airport, as we were going through security, Mohammed was stopped and completely searched and subjected to a litany of questions by security officials. He looked at me. I said to him it was a random security act.

At Toronto International Airport, he and I were both stopped and completely searched by officials. We both meekly smiled and said it was yet another random act.

At Vancouver airport, Mohammed was yet again stopped and completely checked by airport security officials. They went through his belongings, examining everything with the greatest scrutiny. I just looked at him, as I could no longer explain.

Throughout our journey, either he or both of us were always checked. At every airport, Mohammed was stopped and searched. I just timidly looked on, feeling impotent. What could I do?

Today there are many Mohammeds in our country who face the same challenge. September 11 truly changed our world.

Honourable senators, I rise today to speak at third reading of Bill C-7, the Public Safety Act. As many of you know, I have expressed grave concerns about this bill and about the anti-terrorism strategy in general. I have often spoken about the need for balance — a fine balance of civil liberties and security and how one must not forsake one for the other.

Our government must protect the security of our citizens, but it has an equal duty to protect the civil liberties of its people, all its people. The duty of our government to protect the security of citizens while simultaneously respecting the pluralistic and multicultural country in which we live is what defines Canada. It is at the very core of the promise of peace, order and good governance.

In fighting the war on terror, we must fight with laws and policies that allow security and freedom to coexist.

The events of September 11 provoked immediate responses. Our country faced unprecedented security threats and we needed to protect our country. We responded by swiftly implementing Bill C-36, the Anti-terrorism Act.

Three years have passed since the implementation of Bill C-36. We have had time to reflect and ask ourselves if we struck a balance. Three years later, we now realize that in aggressively pursuing the security agenda of our country, we have alienated our communities. The trust that our communities place in the authorities has been eroded.

The effects of these laws and the failure to strike a balance have been felt heavily by certain minority communities. As I have travelled across the country, hearing about the experiences that people have endured has left a chilling impact on me. Individuals and entire communities feel targeted and persecuted simply because of how they look or because of their religion or because of their last name. This is not based on any real evidence of them being a threat to our country. They are being judged purely by appearances and stereotypes rather than by their actions.

Honourable senators, terrorism remains a real threat. Our country and the global community cannot remain blind to the possibility of further attacks. The attack against the commuter trains in Madrid serves as a stark reminder. It is our government's paramount duty to protect its citizens and to develop legislation and policies that will keep our country safe from terrorism. I do not dispute that. Our government needs the powers to respond to terrorism swiftly. I do not dispute that. Terrorists must be aggressively pursued, prosecuted and punished. I do not dispute that.

The challenge for our government is to ensure that, as we implement policies in the name of security, we do not destroy what we cherish most — our fundamental rights.

Every community to whom I have spoken across the country is committed to fighting the war on terror. They, too, find the acts of September 11 truly barbaric. However, as committed as they are to fighting this war against terrorism, they have developed a profound mistrust of authority since September 11 because of our failure to appropriately balance civil liberties and security. Rather than mobilizing all members of our society to fight terrorism, we have created an "us and them" society.

Ethnocultural communities have not been fully integrated and engaged. They are not represented among those who are the first responders to acts of terrorism. We must not forget that all Canadians, regardless of their ethnicity, race or religion, are equally vulnerable to the threat of terrorism. Muslims died in the Madrid train bombs. Muslims died in the September 11 attack. However, in the fight against terrorism, some communities have had to bear a real burden, not only fearing the threat of terror as all Canadians do but also fearing being targeted by the authorities meant to protect them. Therefore, we must find a way to make their voices heard. Until we engage all segments of our society, our world is no safer today than it was yesterday.

• (1620)

Information sharing: When I spoke at second reading of Bill C-7, one of my major areas of concern was the clause of the bill that dealt with the sharing of information — that airline passenger information would be handled by the RCMP and CSIS and, in some situations, might even be handed over to foreign governments. This is of serious concern to all Canadians, but especially those belonging to ethnic minorities.

We have been assured by the Minister of Public Safety and Emergency Preparedness that before any information on a Canadian citizen or a landed immigrant can be shared by the RCMP with foreign authorities, under proposed section 4.82 of the Aeronautics Act, a ministerial directive will set out the privacy safeguards and other requirements for collection, use and disclosure that must be taken into account. These will be outlined in arrangements between the RCMP and foreign authorities. The government has also committed to an arm's length review mechanism for the RCMP in the national security policy. I believe that oversight of the powers in this proposed legislation will be one of the most important roles for this committee.

Additional funding has also been given to the Security Intelligence Review Committee, SIRC, to help it monitor the expanded national security roles of CSIS. CSIS itself has a statutory process for entering into agreements with foreign governments, a process that includes a requirement for ministerial approval of information-sharing arrangements.

Clauses 5 and 11 of Bill C-7 set out the process by which the Minister of Citizenship and Immigration will be able to enter into information-sharing agreements and less formal information-sharing arrangements with foreign governments under the Immigration and Refugee Protection Act. The exact procedure for this sort of information sharing will be set out in regulations, and these regulations will contain specific measures to protect privacy and civil liberties.

Honourable senators, Parliament will also review these regulations before they are put in force. We will have the chance to ensure that these regulations are respectful of Canadian rights.

The cross-cultural round tables: On April 27, Canada's first-ever national security policy — "Securing an Open Society: Canada's National Security Policy" — was unveiled. The national security policy articulates core national security interests in a manner that is to be fully reflective of key Canadian values of democracy, human rights, respect for the rule of law and pluralism. An integral part of the policy is to engage ethnocultural and religious communities on issues related to national security. It is one of the three advisory bodies created under the policy that will offer input into how the policy is implemented. The other two groups will be a national security advisory committee made up of security experts, external to government, and a high level federal-provincial-territorial forum on emergencies.

Honourable senators, I have been assured by our government that it is committed to not only engaging in genuine dialogue with members from ethnocultural communities from across our country, but also is equally committed to ensuring that communities are an integral player in the implementation and development of these policies. This dialogue and engagement with ethnocultural communities is not simply a short-term objective; rather, it is to serve as a permanent mechanism, whereby the government and the communities alike can continually evaluate the evolving nature of Canada's security needs.

As well, the government has committed to set the terms of reference of the cross-cultural round tables within the next 30 days. To me, this demonstrates a real commitment on behalf of the government to translate this policy into real action. Once the terms of reference have been set, there will be calls for nominations outlining the criteria for members of the round table. I have been given a commitment that the first meeting will take place this fall.

Honourable senators, I am very encouraged by these initiatives, and I believe that we are sincerely starting to make progress — progress such that Mohammed will start feeling that he and I are

both very much part of this country. I have great assurances that the need to engage ethnocultural communities will be a cornerstone of this policy. The challenge will be to ensure that these initiatives will genuinely invest in the understanding of the community.

Honourable senators, we can only achieve the Canada we envision tomorrow if we invest in the people today.

Honourable senators, we must remain vigilant and ensure that the assurances that we have been given do not fall by the wayside. The work that we have begun has been long and hard, and it is far from over. We will have a key role to play over the coming months in the establishment of the cross-cultural round tables. We also have a responsibility to ensure that the procedures put in place for the sharing of information strike the appropriate balance between security and civil liberties.

We must not forget that the review of the Anti-terrorism Act will soon be coming up. This represents a chance for us to examine the entire anti-terrorism strategy on the table and assess how it has worked, how it can be improved and whether we went too far. Did we strike the appropriate balance between security and civil liberties?

When Senator Nolin moved the amendment for review provisions in Bill C-7, he raised a number of key questions that need to be part of the review. I agree with him that we need to keep examining Canada's anti-terrorism strategy, but I believe that we will have this opportunity as part of the review of the Anti-terrorism Act. That act does not exist in a vacuum. In order to completely examine it and the practical effects it has, we will have to look at Bill C-36, Bill C-44 and Bill C-7, and all of these instruments must be looked at simultaneously.

Honourable senators, today, we have a real opportunity to capitalize on the progress that has been made as reflected in the national security policy. Therein lies an unprecedented opportunity for change and for us to create the Canada we have always dreamed of.

Let us rise to this challenge and fight this war on terrorism the best way we know how and in a manner that truly reflects the fabric of our community. Terrorists should be prosecuted as the criminals they are, with due process and legal transparency. Everyone else must be treated as equal citizens of this great country of ours.

The debate that has unfolded in this chamber has convinced me that members of this place are truly concerned and committed to the welfare of Canada's ethnocultural minorities and are committed to ensuring that their rights are respected as we proceed with the important task of ensuring security. Senator Murray's passionate plea for greater oversight and input into these policies, in which he took up and expanded on some of the points that I had attempted to make in my own speech at second reading, is a prime example of this commitment, and I thank him for his words.

Honourable senators, thank you again for the genuine support you have shown for the concerns I expressed at second reading of this bill. I know that communities across Canada will be able to count on all of us to remain committed to helping them achieve the balance we all desire.

Hon. A. Raynell Andreychuk: Honourable senators, I have a few short remarks. However, I wonder if I could ask Senator Jaffer whether these commitments were given to her in some written form that I could share with the constituencies that have contacted me. I have nothing in writing before me.

Senator Jaffer: Senator Andreychuk raises valid concerns. I will attempt to get those in writing.

The Hon. the Speaker: Senator Jaffer is out of time. Do you wish additional time, Senator Jaffer?

Senator Jaffer: I would ask leave to continue.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I recall Senator Jaffer expressing, during second reading, her anxieties and the personal experiences she and her family have had. Now she tells us that she has received assurances that lead her to believe that such excesses will not be repeated. However, I am troubled by the fact that those assurances, she tells us, are verbal. Verbal assurances are not a commitment.

Would the honourable senator tell us who made those assurances? If she has them in writing, would she share them with others who may not be subjected to the same harassment that members of her community and others might be but who also want to feel that all Canadians are treated the same? If we had that kind of commitment in writing on behalf of the Government of Canada, we would all feel a sense of relief.

• (1630)

Senator Jaffer: I thank Senator Lynch-Staunton for raising that question. He referred to the second reading speech in which I expressed my concerns. When Bill C-36 was passed, Senator Fairbairn expressed in this chamber that an advisory committee of ethnocultural people was to be established and that it was not. I had great concerns in this regard.

Once you are made a fool, the person who makes you a fool is a fool; the second time, you are the fool. I understand what the honourable senator has said, but this time, this subject is within our national policy. One of the keystones is the cross-cultural round table, so I have great faith that this time it will be established.

Hon. Anne C. Cools: Honourable senators, I was listening with care to Senator Jaffer when she spoke to the question, but her concern was mostly about Mohammed, I believe. Her concern

was that at every contact with security, this individual was searched. I know that these experiences happen, and they are very upsetting and humiliating.

I wonder if Senator Jaffer could give us some insight into two matters. First, what is the cure for that? I see this happen all the time. People look a certain way. I now hear expressions such as, "He or she looks Middle Eastern," or "He or she looks Arabic." I have even heard recently, "He or she looks Muslim." Senator Jaffer has done a lot of work in this area. How can we cure that? She knows exactly what she is talking about.

Second, with the advent of the new security service and the expansion in the number of security people at the airport, I observed that a great number of visible minority people are themselves security personnel. In her research, has Senator Jaffer obtained an idea of the number or percentage of security personnel who are visible minorities?

Third, were the security people who searched her friend or associate visible minorities themselves?

Senator Jaffer: Honourable senators, Senator Cools asked me how we get over the challenges we have been facing since September 11 and others that Senator Oliver has spoken of so eloquently in the chamber. The way to do that is to have dialogue. I place much of my trust in the cross-cultural round table because I believe that when people understand the challenges that other Canadians face, there will be education.

I have been involved in the training of judges and members of the RCMP, and I believe that each time we have conducted the training, they leave with a better understanding of the different communities that live within their midst. Dialogue is important.

I also believe that if we in Canada cannot achieve that dialogue, no other country will because we are a very inclusive society. I have absolute trust that until the first responders reflect the society in which we live, cross-cultural round tables will be a way to hear from the various communities. People who are affected by these laws must have a say in the policy.

As for the security officials, they were mixed. It could be both. On one occasion I asked security officials why they stop travellers of a certain ethnicity, and I was told that they were asked to look out for people who look like Mohammed.

That is my challenge, honourable senators, and that is why I feel we have our work cut out for us to ensure that there is training. Just as the RCMP trains its members to identify criminal acts, we must do the same kind of training so they look beyond the fact that the person is brown. A brown person is not a terrorist. There has to be something in addition to being brown that makes security officials feel that these people are terrorists.

Senator Andreychuk: Honourable senators, I will rise again on a few points with respect to the amendments that have been proposed today. When Mr. John Read, Director General, Transport of Dangerous Goods, Transport Canada, testified, he indicated the following:

[Senator Jaffer]

With respect to safety, when everyone wants things to work correctly, you can maintain a high level of safety by random inspections and by audits. With respect to security, when at least one person wants something to fail spectacularly, you have to inspect everything to avoid that failure.

Honourable senators, on the face of it, that seems to be a reasoned response to a terrorist attack. However, when one realizes how broad in scope the term "security" is in Bill C-7, it goes beyond that which is contemplated to be terrorist acts and into all issues of security, whether they be caused by nature on a day-to-day basis, or incidental consequences, or horrific acts.

To presume that in the interests of security we could avoid failure in all cases by simply inspecting everyone and everything is not the policy direction I would advocate. It certainly contemplates a continuing surveillance of all citizens at all times, even when they are out of the country. It has already been noted that certain segments of our society will be targeted more than others.

As the Canadian Bar Association pointed out when Mr. Potter testified, allowing the police to maintain and hold records for seven days, to sift through them and to share this information with others does not correlate with violence on the flights. After all, as he said, the flights would be over.

As he pointed out, in the wake of the horrific events in Madrid, it is worth noting why Bill C-7 applies only to flights in Canada. To be consistent, if that kind of statute is needed, should it not apply as well to trains, including commuter trains, buses, limousines, rental cars and hotels? As Mr. Potter stated:

Perhaps we would be safer if the police had all that information, too. Forced compilation of airline passenger lists is no different, in principle, from forcing the compilation of lists of hotel guests or commuter train passengers, or from stopping buses on the highway just to see who is on board and what names crop up.

Implementing such measures, of course, would quickly transform Canada into a police state. We do indeed believe, senator, that we are on the lip of a slippery slope, and our position is that before taking that step forward down it, Canada should take a step backward and assess what has already happened and what is necessary in the future.

Further, if part 11 of the bill, which would amend the Immigration and Refugee Protection Act and its regulations, gives power to the government to disclose information for the purpose of "national security" and the "defence of Canada," one would be supportive. However, the government has inserted the phrase "the conduct of international affairs" and no definition is given. Anyone who has worked in foreign policy will say that the term means exactly what the drafters intended it to mean —

nothing more, nothing less. Therefore, while at first blush it looks like information about immigration and refugees would be shared internationally, which in itself is rather intrusive, one can see much information being shared abroad that would in the end not be held just for purposes of immigration and refugees, but for a whole host of other issues in other countries.

• (1640)

In fact, other countries could request information about Canadians in their travel under the guise of immigration and refugees and there would be nothing to prohibit that interpretation. Therefore, until such time as the government comes forward with assurances of how these protocols would work, with whom the information would be shared and with what countries, there is no assurance for anyone working abroad, travelling abroad or immigrating to Canada. There is no assurance that their records would not be used for a whole host of other reasons, including those to do with commercial competitiveness or old political scores.

When one realizes that the amendments would allow for the disclosure of information for the purposes of national security and the defence of Canada, what more could there be with respect to terrorism beyond these phrases? Why have this vague notion of international affairs?

In fact, assurances given by the Canadian government are just that, assurances for the Canadian government. They are not binding on other countries that will have access to this information and which our government will be allowed to disclose, even though much of the bill refers to activity in Canada.

Citizens should wonder whether the policy disclosed last week by Minister McLellan is the correct policy, as it assembles a massive bureaucracy, and this is added to wide-sweeping legislation such as Bill C-7. It will only serve to have all public servants veering in every direction, thereby reducing the concentration on identifying appropriate intelligence-gathering capabilities and strategies to target in on terrorists. If one wishes to see the fallacy of this policy, one need only read Susan Riley's column in the *Ottawa Citizen* of April 28, 2004, which was headlined, "Beating Terrorism and Disasters with Bureaucracy." Tongue in cheek, she wrote:

Terrorists are certainly going to think twice in the face of this intimidating display of bureaucratic and political might. One of these days, the government will get around to remedying some of the trifling oversights revealed in Auditor General Sheila Fraser's recent report — the gaping holes in those pesky terrorist watch lists, airport cargo handlers with criminal records, security agency computers that don't talk to other agency computers and so on. CSIS and the RCMP may eventually get around to hiring more Arabic-speaking agents, too, which might help the intelligence-gathering effort.

She goes on to quote the government report where it stated, "The world is a dangerous place." However, as Susan Riley points out:

The limitation is this: In a country with a vast, open border and a tradition of welcoming newcomers, there is only so much protection we can afford or tolerate. Our best defence against terrorism is enhanced intelligence, (including agents with intimate knowledge of other cultures) and enlightened foreign policy.

If the government is so bent on moving in this political direction it should at least work within acceptable government functioning, and I believe the amendments proposed today speak to this. A myriad of legislation, a myriad of consultation, and time to assess all this is what we really need. Our safety and security should be assured not through consultations, but through the rule of law. We should be isolating terrorists and not isolating our country and our citizens. Ministerial undertakings and consultations are no guarantee that we will have the kind of protection that we want against terrorists; nor will we have the kinds of protections that the law can give us. Surely democracy is the way to go, not undertakings by our leaders.

The Hon. the Speaker: Are honourable senators ready for the question in this matter?

Some Hon. Senators: Question!

The Hon. the Speaker: I will put the question. We have a series of amendments. I am not sure I have the third amendment.

Senator Kinsella: Honourable senators, I believe it is the house order that all those votes are to be put off until 5:30 p.m., so we can move to the next item of Government Business.

The Hon. the Speaker: That is true, but the house order also requires me to put the question. I must put them in reverse order, so I will read the last amendment.

I will proceed with the question by asking for the wishes of honourable senators with respect to the amendment moved by the Honourable Senator Kinsella, seconded by the Honourable Senator Stratton, that bill C-7 be not now read the third time but that it be amended —

Some Hon. Senators: Dispense.

The Hon. the Speaker: All those honourable senators in favour of the motion in amendment will please say “yea.”

Some Hon. Senators: Yea.

The Hon. the Speaker: All those honourable senators opposed to the motion in amendment will please say “nay.”

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion the nays have it.

And two honourable senators having risen:

The Hon. the Speaker: We will proceed to take the votes at 5:30 p.m., and the bells will ring at 5 p.m. As has been mentioned, we will proceed with business now, until 5 p.m.

Debate suspended.

PATENT ACT FOOD AND DRUGS ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-9, to amend the Patent Act and the Food and Drugs Act.

Bill read first time.

On motion of Senator Rompkey, bill placed on the Orders of the Day for second reading two days hence.

AMENDMENTS AND CORRECTIONS BILL, 2003

THIRD READING—DEBATE SUSPENDED

Hon. Serge Joyal moved third reading of Bill C-17, to amend certain Acts.

He said: Honourable senators, as one would say in French, “les sujets se suivent mais ne se ressemblent pas.” After the very serious debate that we have had on Bill C-7 this afternoon, I feel a bit out of sync by moving Bill C-17, which is a miscellaneous bill that deals with matters that are more of a housekeeping or maintenance nature than serious principles related to the Charter, human rights and security that we have heard about this afternoon.

I am a stand-in for the Honourable Senator Bryden, who was the sponsor of this bill at second reading, but I have had the privilege, with my colleagues on the Standing Senate Committee on Legal and Constitutional Affairs, to study this bill and hear the witnesses, and I now feel at ease to promote its third reading this afternoon in our chamber.

[Translation]

One of the provisions in the bill is intended simply to adjust the French translation of a section in the Canada Customs and Revenue Agency Act by substituting “commissaire délégué” for “commissaire adjoint.” This is merely a matter of semantics to ensure that both versions are compatible.

• (1650)

[English]

For example, in the Customs Act and in the Financial Administration Act, there is a better definition of “officer-director” versus “director.” Essentially, there is a semantic clarification in those acts. Another amendment deals with the Importation of Intoxicating Liquors Act, to ensure that the annex or schedule of the Customs Act is reflected clearly in the implementation of the Importation of Intoxicating Liquors Act. There is also the amendment to the National Round Table on the

Environment and the Economy Act that deals with the concept of "executive director" versus "president." That, again, is another semantic clarification.

Hence, there is a set of provisions in the bill that is merely, as I said in my opening remarks, more in the nature of housekeeping and maintenance rather than of uplifting principles.

A large segment of the bill deals with the status of the Lieutenant Governor in relation to those who find themselves disabled during their terms of office and their resultant capacity to continue to contribute to their pensions while they are disabled. Once they have reached pensionable age, or the pension terms of office, which is usually a five-year term plus a one-year extension, they would be in a position to draw their pension and, of course, it would afford spouses the same kind of protection when the circumstances open.

That segment of the bill is quite long. Witnesses from Treasury Board and the Privy Council testified at length in committee. Senator Andreychuk, in particular, participated in those discussions because the objective to implement those changes dealt with many acts, such as the Superannuation Act, the Salaries Act and the Supplementary Retirement Benefits Act, to give effect to those changes.

Another aspect of the bill that is of particular interest to me — and I am happy to have this opportunity to discuss it this afternoon and share my concerns with you — is an amendment to the Parliament of Canada Act. The objective of the amendment is to extend retroactivity to chairs and deputy chairs of special committees to draw the supplementary salaries that this Parliament has voted and made effective for January 2001.

I must inform the house that Honourable Senator Nolin, who is a member of the Standing Senate Committee on Legal and Constitutional Affairs Committee, withdrew from the meetings during our study of those sections to avoid any apparent conflict of interest or perceived doubt about his interest, because this provision would apply to him. Honourable senators will recall that Senator Nolin was a very able chairman of the Special Senate Committee on Illegal Drugs in respect of proposed legislation on marijuana. This portion of the bill will cover the chair and deputy chairs of special committees of the Senate retroactively to January 2001.

Honourable senators, I must express my concern about the payment of chairs and deputy chairs of committees. I have voiced my opposition to this in this chamber before. I am opposed to Parliament paying chairs and deputy chairs of committees a salary in addition to the salary paid from the public purse. I express my concern because I thought that that might impinge upon the independence of honourable senators. It is my contention that all members of a standing committee or a special committee work as hard as any other member and so we should recognize the work of individual senators on the same basis.

This is not the proper forum to settle debate or to open a broader debate on this. However, I deemed it appropriate to the principles that I hold to express my concerns.

Bill C-17 contains provisions to make legal corrections to the increase of consular fees that were posted for consultation in 1997, implemented in publication in the *Canada Gazette* but never adopted by Governor in Council. It was realized in January 2003 that the Governor in Council adopted that schedule of consular fees. However, it needs to be corrected legally, to ensure that no doubt exists in respect of the treasury cash for each year in the amount of about \$1 million for consular fees. The fees have nothing to do with the expenses incurred by our consular representatives abroad when they deal with Canadians who find themselves afoul of the law in foreign countries. Rather, the fees are essentially for the administrative work, including certifying documents, administering oaths and other such administrative work.

Honourable senators, Bill C-17 does not raise any issues related to the Charter, to human rights or to important principles; it is essentially a housekeeping bill. The work of the Standing Senate Committee on Legal and Constitutional Affairs included examination of each clause. Therefore, the committee feels comfortable in asking for your concurrence of Bill C-17 at third reading today.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I ask you to bear with me as I object again to the title of this bill, which is simply "An Act to amend certain Acts." It was presented to us as an innocuous cleaning up and for minor corrections. It turns out, from what Senator Joyal has told us, that it contains important changes to the Lieutenant Governors Superannuation Act and others that are not inconsiderable. I want to object to the government, who on the pretence of "tidying up," presented significant changes to six to 10 acts in one bill. That is not the way to proceed, although it may be more efficient and expeditious. It is wrong to expect the Senate to sort through so many acts in one bill to understand the rationale behind all the changes.

The same occurred with Bill C-7, which we just debated, which contains amendments to some 22 acts. The argument there is that we must move fast because of a certain climate we have been in for over two years, but that is no excuse. We should receive bills that are specific in their intent, limited to one subject matter, and not in the form of this one — a mistitled bouillabaisse. I am certain most honourable senators still do not know all that it contains.

With that said, honourable senators, I will certainly not object to third reading.

Some Hon. Senators: Question!

Hon. Anne C. Cools: Honourable senators, I wish to ask a question of Senator Joyal, who may have some insight. I, too, objected to the phenomenon of paying chairs and deputy chairs of committees. Senator Joyal and I had adopted similar positions on this. In the study of this bill, was Senator Joyal able to glean any insights as to why this additional amendment has been brought

forward and why the first initiative was ever brought about? It has never been clear to me why chairs and deputy chairs should be paid. It creates a degree of difference between the indemnities of members. In addition, it is a kind of oddity because chairs of committees have the support of research staff and of the committee clerk. They receive support and a salary, making the situation remarkably unequal and unfair.

Was Senator Joyal able to determine why these initiatives are coming before the house? I have not heard of any movement among members of Parliament calling for chairs and deputy chairs to be remunerated in a special and additional way.

Debate suspended.

The Hon. the Speaker: Honourable senators, it being five o'clock, pursuant to the order adopted by the Senate on Thursday, April 29, 2004, it is my duty to advise that the bells are to ring for 30 minutes, commencing now, for a vote to be taken at 5:30 p.m. to dispose of all matters with respect to Bill C-7.

Call in the senators.

• (1730)

PUBLIC SAFETY BILL 2002

THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Day, seconded by the Honourable Senator Léger, for the third reading of Bill C-7, to amend certain Acts of Canada, and to enact measures for implementing the Biological and Toxin Weapons Convention, in order to enhance public safety.—*(Pursuant to the Order adopted on April 29, 2004, all questions will be put to dispose of third reading of this Bill at 5:00 p.m.)*

The Hon. the Speaker: Honourable senators, the question is on the motion in amendment of the Honourable Senator Kinsella, seconded by the Honourable Senator Stratton, that Bill C-7 be not now read a third time, but that it be amended,

(a) in clause 5 —

An Hon. Senator: Dispense.

The Hon. the Speaker: Shall I dispense?

Hon. Senators: Agreed.

Motion in amendment negated on the following division:

YEAS THE HONOURABLE SENATORS

Andreychuk
Angus
Atkins
Forrestall
Johnson

Murray
Nolin
Oliver
Plamondon
Prud'homme

Kelleher
Kinsella
LeBreton
Lynch-Staunton

Spivak
St. Germain
Stratton
Tkachuk—18

NAYS THE HONOURABLE SENATORS

Austin
Bacon
Banks
Biron
Callbeck
Carstairs
Chaput
Christensen
Cook
Cools
Corbin
Cordy
Day
Downe
Finnerty
Fitzpatrick
Fraser
Furey
Gauthier
Gill
Grafstein
Graham
Harb
Jaffer
Kirby

Kroft
LaPierre
Lawson
Léger
Losier-Cool
Maheu
Massicotte
Mercer
Merchant
Milne
Moore
Morin
Munson
Pearson
Phalen
Poulin
Ringuette
Robichaud
Rompkey
Sibbeston
Smith
Stollery
Trenholme Counsell
Watt—49

ABSTENTIONS THE HONOURABLE SENATORS

Hervieux-Payette
Lapointe

Lavigne—3

The Hon. The Speaker: The question is now on the motion in amendment of the Honourable Senator LeBreton, seconded by the Honourable Senator Stratton, that Bill C-7 be not now read a third time, but that it be amended,

(a) in clause 11, on page 21 —

An Hon. Senator: Dispense.

Motion in amendment negated on the following division:

YEAS THE HONOURABLE SENATORS

Andreychuk
Angus
Atkins
Forrestall
Johnson
Kelleher
Kinsella
LeBreton
Lynch-Staunton

Murray
Nolin
Oliver
Plamondon
Prud'homme
Spivak
St. Germain
Stratton
Tkachuk—18

NAYS
THE HONOURABLE SENATORS

Austin	Kroft
Bacon	LaPierre
Banks	Lawson
Biron	Léger
Callbeck	Losier-Cool
Carstairs	Maheu
Chaput	Massicotte
Christensen	Mercer
Cook	Merchant
Cools	Milne
Corbin	Moore
Cordy	Morin
Day	Munson
Downe	Pearson
Finnerty	Phalen
Fitzpatrick	Poulin
Fraser	Ringuette
Furey	Robichaud
Gauthier	Rompkey
Gill	Sibbeston
Grafstein	Smith
Graham	Stollery
Harb	Trenholme Counsell
Jaffer	Watt—49
Kirby	

ABSTENTIONS
THE HONOURABLE SENATORS

Hervieux-Payette	Lavigne—3
Lapointe	

• (1740)

The Hon. the Speaker: Honourable senators, the question is now on the motion in amendment of the Honourable Senator Stratton, seconded by the Honourable Senator LeBreton:

That Bill C-7 be not now read a third time but that it be amended,

(a) in clause 2, on page 2 —

Shall I dispense?

Hon. Senators: Agreed.

Motion in amendment negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Andreychuk	Murray
Angus	Nolin
Atkins	Oliver
Forrestall	Plamondon
Johnson	Prud'homme
Kelleher	Spivak

Kinsella
LeBreton
Lynch-Staunton

St. Germain
Stratton
Tkachuk—18

NAYS
THE HONOURABLE SENATORS

Austin	Kroft
Bacon	LaPierre
Banks	Lawson
Biron	Léger
Callbeck	Losier-Cool
Carstairs	Maheu
Chaput	Massicotte
Christensen	Mercer
Cook	Merchant
Corbin	Milne
Cordy	Moore
Day	Morin
Downe	Munson
Finnerty	Pearson
Fitzpatrick	Phalen
Fraser	Poulin
Furey	Ringuette
Gauthier	Robichaud
Gill	Rompkey
Grafstein	Sibbeston
Graham	Smith
Harb	Stollery
Jaffer	Trenholme Counsell
Kirby	Watt—48

ABSTENTIONS
THE HONOURABLE SENATORS

Cools	Lapointe
Hervieux-Payette	Lavigne—4

The Hon. the Speaker: We are now on the main motion, honourable senators.

All those in favour of the motion will please say “yea.”

Some Hon. Senators: Yea.

The Hon. the Speaker: All those opposed to the motion will please say “nay.”

Some Hon. Senators: Nay.

The Hon. the Speaker: I believe the “yeas” have it.

Some Hon. Senators: On division!

The Hon. the Speaker: I see one honourable senator rising but we need two for a division.

Accordingly, the bill passes, on division.

Motion agreed to and bill read third time and passed, on division.

AMENDMENTS AND CORRECTIONS BILL, 2003

THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Joyal, seconded by the Honourable Senator Carstairs, for the third reading of Bill C-17, to amend certain Acts.

The Hon. the Speaker: Honourable senators, Senator Joyal is not in the chamber. We are on Bill C-17.

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, Senator Joyal had moved the motion; it had been debated. I understand that debate had finished and I think His Honour could call the question now.

The Hon. the Speaker: Are honourable senators ready for the question?

Hon. Senators: Question!

The Hon. the Speaker: I will put the question.

It was moved by the Honourable Senator Joyal, seconded by the Honourable Senator Carstairs, that this bill be read the third time now.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

Senator Lynch-Staunton: On division.

Senator Cools: On division.

Motion agreed to and bill read third time and passed, on division.

PARLIAMENT OF CANADA ACT

BILL TO AMEND—THIRD READING— DEBATE ADJOURNED

Hon. Yves Morin moved third reading of Bill C-24, to amend the Parliament of Canada Act.

He said: Honourable senators, I would like to respond this afternoon to issues that have been raised in response to Bill C-24, both in committee and as well in the media.

First, and perhaps most important, this is a compassionate bill. While our public health care system ensures that no one goes without health care when they need it, our system does not uniformly include coverage for prescription drugs. The situation differs from province to province. That was one of the main issues raised by our committee following its study of the Canadian health care delivery system.

Most working Canadians have private insurance plans that provide drug coverage for them and their families while they work and immediately after they retire. Other Canadians, in the Atlantic provinces, for instance, must bear the cost of the life-saving drugs they need themselves. Increasingly, many of these drugs are priced out of the range of average Canadians. In one specific case, for instance, the cost of a disease-modifying drug is more than \$25,000 a year.

Members of Parliament who retire before the age of 55 — and let us remember that this is not a position known for its job security — are among those who must bear such costs themselves. Since the rules for parliamentary pensions were changed in 1995, members of Parliament are no longer eligible for pensions immediately upon retirement, but must wait until they reach the age of 55.

• (1750)

That means there is a period during which they can neither pay premiums nor have drug plan coverage. That can be a serious situation for those without a provincial pharmacare plan or without independent means.

Minister Jacques Saada stated before the committee that there was a serious flaw in the system and that the way to address it is the proposed bill. In fact, Madam Ginette Bougie from the Privy Council office told us that there is no other way to amend the Parliament of Canada Act in a timely manner. Since the passage of Bill C-28 in June 2001, there is no longer a commission that reviews parliamentarians' salaries and other benefits after each election.

[Translation]

Some comments also addressed the process by which this bill went through the House of Commons. Indeed, it was unanimously adopted without any real debate and without being referred to a committee.

I realize that this is quite unusual, but there are precedents for this type of bill, which has to do with compensation for members of Parliament; Bill C-28, for example, to which I alluded earlier.

In conclusion, I want to add that since I have been in the Senate, I have always been impressed by the motivation and dedication of members of the House of Commons. They have long workdays and often work on the weekends travelling throughout their ridings, often long distances. When they leave their positions as MPs, their futures are often uncertain. Yet it is essential that we be able to continue to attract high-calibre people, who are willing to serve their country in such a demanding position.

[The Hon. the Speaker]

That is why, honourable senators, I am pleased to do everything in my power to improve their working conditions. And that is why I am happy to sponsor this excellent bill.

[English]

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Would the honourable senator answer a couple of questions for clarification?

Senator Morin: Certainly.

Senator Kinsella: Honourable senators, we all know that, when the Standing Senate Committee on Social Affairs, Science and Technology reported this bill, it did so without amendments. However, it did have observations. In those observations, the committee has raised for us a number of questions. It is those questions on which I should like to have some feedback from Senator Morin.

First, I will quote from the observations in the committee's report:

...the Committee does have concerns about the process followed; in particular, the use of legislation that amends legislation of general application and impacts a broad policy area, with little debate or public input, when other means may have been available to address an individual situation.

My question to Senator Morin is, first, in his opinion, was there sufficient examination and debate on this bill in both Houses of Parliament? Second, what are the other means that might have been available to address the case of an individual member of the House of Commons to which I believe this report is referring?

Senator Morin: I thank the honourable senator for his question.

The process is, in itself, a bit unusual. As I stated earlier, the bill was introduced in Parliament and voted on the same afternoon without being referred to committee. That being said, it was discussed among the three parties and it was unanimously passed.

As I said also, there are a number of precedents for the quick passage of bills of this type in both houses without discussion and without referral.

Senator Lynch-Staunton: The less known the better.

Senator Morin: I should like to refer, for example, to Bill C-28, which had its first reading in the Senate on June 11, 2001; second reading on June 12, 2001; and third reading on June 13, 2001, without much debate or referral to committee. There are, of course, other precedents for that.

That being said, it would have been preferable to have had a referral to committee and debate in the other place. There were comments in the press on that issue.

The Senate held several hearings on the bill in our committee. We could have studied the bill at great length.

As to the possibility of using other means, Madam Ginette Bougie from the Privy Council Office is responsible for the insurance plans for both civil service employees and for parliamentarians. She stated that there is no other way to amend the Parliament of Canada Act in a timely manner.

There used to be a commission that sat after each election and reviewed parliamentarians' salaries and benefits and, after its study, made recommendations. As you know, since Bill C-28, in June 2001, that commission no longer exists. It is not possible for either the Treasury Board or the Privy Council Office to unilaterally change the terms of the benefits of parliamentarians. Parliamentarians themselves must make changes through legislation.

In the private sector, as was stated repeatedly, this issue would have been settled easily as only one case required this legislation. I might say that it is a flaw that might also apply to other parliamentarians. Of course, it was triggered by one case, but it will, from now on, apply to all parliamentarians.

Senator Kinsella: In the observations of our committee, notwithstanding what the official from the Privy Council Office said, our committee is telling us a better approach may have been to amend the Members of Parliament Retirement Allowances Act, to permit former parliamentarians to take a reduced pension prior to age 55 and receive plan coverage, making the system and choices more comparable to those available to former civil servants.

Perhaps Senator Morin would explain why he thinks that course of action was not taken. I compliment all members of the standing committee who examined this bill. The general media in Canada noticed and said, "Bravo," to the Senate for taking a more careful look at this bill.

Another observation caught my attention in the committee's observations regarding the long-term ramifications of the bill. The committee is telling us that they are not sure of the long-term ramifications. Witnesses suggested it could be a precedent that would affect future public servants in collective bargaining. The extension of these benefits to parliamentarians could result in nearly half a million federal employees requesting similar pre-pension health and dental benefits. That seemed to be a serious concern for our colleagues on the committee. Perhaps Senator Morin might reflect on that.

Senator Morin: This bill does not apply to the civil service. A civil servant who applies for benefits must be in retirement of the civil service. I think there was a misconception by the Canadian Taxpayers Federation. If a parliamentarian leaves the civil service at age 50, he will not be retired. Therefore, he cannot receive benefits. For a civil servant to receive these benefits, the civil servant must be officially retired and receiving a pension. If a civil servant leaves the civil service at 50, he can no longer apply for retirement benefits if he takes on another job.

• (1800)

The process is completely different between the civil servant and the parliamentarian. What is unusual about parliamentarians, and this does not apply to any other working Canadian, for that matter, is that there is a window between the cessation of work and retirement. During this window, the parliamentarian cannot pay premiums for the benefits, and this can be extremely serious. Another example is that a parliamentarian may be unable to work and be totally handicapped and profit from disability insurance while he is sitting in Parliament. If he does not run in the next election, he is no longer entitled to disability insurance and may be in a very difficult situation.

The Hon. the Speaker: I am sorry to interrupt, Senator Morin, but it is six o'clock. It is your wish, honourable senators, not to see the clock?

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, once we disposed of the debate one way or the other on this particular item, I will be asking that we stand all other items on the Order Paper in their place until the next sitting of the Senate.

Hon. John Lynch-Staunton (Leader of the Opposition): I will be adjourning the debate, but before that, I want to —

The Hon. the Speaker: I am sorry, Senator Lynch-Staunton, but it is getting past six o'clock. I do not know that we cannot see the clock conditionally.

Senator Rompkey: Can we agree not to see the clock for 15 minutes?

The Hon. the Speaker: Perhaps we can. Is it agreed that we not see the clock for 15 minutes?

Senator Rompkey: There is agreement not to see the clock for 15 minutes.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Senator Lynch-Staunton: I want to comment on what Senator Morin said, because he underlines the problem that this bill will cause. The government's argument has been that parliamentarians will get the same advantages that civil servants do. That is true in terms of age, but a civil servant must be receiving a pension before being entitled to be eligible for the benefits program, whereas under this bill a parliamentarian need not be receiving a pension.

We were told by the Public Service Alliance of Canada that if the government wants to put parliamentarians on the same basis

as civil servants, then civil servants should be on the same basis as parliamentarians. We may well see this bill leading to a hardening of negotiations. It goes beyond one person. It is setting a level of benefits that is available only to parliamentarians based on one case. That is the wrong way to go.

Senator Morin was quite right when he said that we have done this before. I can remember two cases, the one he mentioned and one before that, and I did not feel comfortable at the time. I intervened on this one because I think we should stop and think carefully about what we are doing here. Without taking away from the feelings that we have regarding the one person whose difficulties initiated this legislation, it will cause, I am afraid, a problem that was not intended.

I think we should reflect for a few more days, before hastening into approving this, leaving aside the one case that prompted it, because elements in this bill may come back to haunt us, particularly in negotiations with the union, which is following the course of this legislation very carefully. That is not to say that they are not entitled to the same benefits as parliamentarians. As a matter of fact, I do not know why parliamentarians should be entitled to better benefits than anyone else.

The problem is that when there are isolated cases, unlike in private industry where the carrier of the insurance and the employer can find something in the agreement which can accommodate the exception, in the case of Parliament, we are locked into the legislation. Therefore, there cannot be same flexibility. The flexibility found in private enterprise is not found here. There must be a way to write into the law an element of flexibility so that these cases can be avoided in the future.

On that, honourable senators, I move the adjournment of the debate.

On motion of Senator Lynch-Staunton, debate adjourned.

BUSINESS OF THE SENATE

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I assume there is agreement to stand all other items on the Order Paper until the next sitting of the Senate.

The Hon. the Speaker: Is it agreed, honourable senators, that all remaining matters on the Order Paper and Notice Paper stand in their place until the next sitting and that we proceed to the adjournment motion?

Hon. Senators: Agreed.

The Senate adjourned until Wednesday, May 5, 2004, at 1:30 p.m.

APPENDIX

Officers of the Senate

The Ministry

Senators

(Listed according to seniority, alphabetically and by provinces)

Committees of the Senate

THE SPEAKER

The Honourable Daniel P. Hays

THE LEADER OF THE GOVERNMENT

The Honourable Jack Austin, P.C.

THE LEADER OF THE OPPOSITION

The Honourable John Lynch-Staunton

OFFICERS OF THE SENATE**CLERK OF THE SENATE AND CLERK OF THE PARLIAMENTS**

Paul Bélisle

DEPUTY CLERK, PRINCIPAL CLERK, LEGISLATIVE SERVICES

Gary O'Brien

LAW CLERK AND PARLIAMENTARY COUNSEL

Mark Audcent

USHER OF THE BLACK ROD

Terrance J. Christopher

THE MINISTRY

According to Precedence

(May 4, 2004)

The Right Hon. Paul Martin	Prime Minister
The Hon. Jacob Austin	Leader of the Government in the Senate
The Hon. David Anderson	Minister of the Environment
The Hon. Ralph E. Goodale	Minister of Finance
The Hon. Anne McLellan	Deputy Prime Minister and Minister of Public Safety and Emergency Preparedness
The Hon. Lucienne Robillard	Minister of Industry and Minister responsible for the Economic Development Agency of Canada for the Regions of Quebec
The Hon. Pierre S. Pettigrew	Minister of Health, Minister of Intergovernmental Affairs and Minister responsible for Official Languages
The Hon. James Scott Peterson	Minister of International Trade
The Hon. Andrew Mitchell	Minister of Indian Affairs and Northern Development
The Hon. Claudette Bradshaw	Minister of Labour and Minister responsible for Homelessness
The Hon. Denis Coderre	President of the Queen's Privy Council for Canada, Federal Interlocutor for Métis and Non-Status Indians, Minister responsible for La Francophonie, and Minister responsible for the Office of Indian Residential Schools Resolution
The Hon. Rey D. Pagtakhan	Minister of Western Economic Diversification
The Hon. John McCallum	Minister of Veterans Affairs
The Hon. Stephen Owen	Minister of Public Works and Government Services
The Hon. William Graham	Minister of Foreign Affairs
The Hon. Stan Kazmierczak Keyes	Minister of National Revenue and Minister of State (Sport)
The Hon. Robert Speller	Minister of Agriculture and Agri-Food
The Hon. Giuseppe (Joseph) Volpe	Minister of Human Resources and Skills Development
The Hon. Reginald B. Alcock	President of the Treasury Board and Minister responsible for the Canadian Wheat Board
The Hon. Geoff Regan	Minister of Fisheries and Oceans
The Hon. Tony Valeri	Minister of Transport
The Hon. David Pratt	Minister of National Defence
The Hon. Jacques Saada	Leader of the Government in the House of Commons and Minister responsible for Democratic Reform
The Hon. Irwin Cotler	Minister of Justice and Attorney General
The Hon. Judy Sgro	Minister of Citizenship and Immigration
The Hon. Hélène Chalifour Scherrer	Minister of Canadian Heritage
The Hon. Ruben John Efford	Minister of Natural Resources
The Hon. Liza Frulla	Minister of Social Development
The Hon. Ethel Blondin-Andrew	Minister of State (Children and Youth)
The Hon. Andy Scott	Minister of State (Infrastructure)
The Hon. Gar Knutson	Minister of State (New and Emerging Markets)
The Hon. Denis Paradis	Minister of State (Financial Institutions)
The Hon. Jean Augustine	Minister of State (Multiculturalism and Status of Women)
The Hon. Joseph Robert Comuzzi	Minister of State (Federal Economic Development Initiative for Northern Ontario)
The Hon. Albina Guarnieri	Associate Minister of National Defence and Minister of State (Civil Preparedness)
The Hon. Joseph McGuire	Minister of Atlantic Canada Opportunities Agency
The Hon. Mauril Bélanger	Deputy Leader of the Government in the House of Commons
The Hon. Carolyn Bennett	Minister of State (Public Health)
The Hon. Aileen Carroll	Minister for International Cooperation

SENATORS OF CANADA

ACCORDING TO SENIORITY

(May 4, 2004)

Senator	Designation	Post Office Address
THE HONOURABLE		
Herbert O. Sparrow	Saskatchewan	North Battleford, Sask.
Edward M. Lawson	Vancouver	Vancouver, B.C.
Bernard Alasdair Graham, P.C.	The Highlands	Sydney, N.S.
Jack Austin, P.C.	Vancouver South	Vancouver, B.C.
Willie Adams	Nunavut	Rankin Inlet, Nunavut
Lowell Murray, P.C.	Pakenham	Ottawa, Ont.
C. William Doody	Harbour Main-Bell Island	St. John's, Nfld. & Lab.
Peter Alan Stollery	Bloor and Yonge	Toronto, Ont.
Peter Michael Pitfield, P.C.	Ottawa-Vanier	Ottawa, Ont.
Michael Kirby	South Shore	Halifax, N.S.
Jerahmiel S. Grafstein	Metro Toronto	Toronto, Ont.
Anne C. Cools	Toronto-Centre-York	Toronto, Ont.
Charlie Watt	Inkerman	Kuujuuaq, Que.
Daniel Phillip Hays, <i>Speaker</i>	Calgary	Calgary, Alta.
Joyce Fairbairn, P.C.	Lethbridge	Lethbridge, Alta.
Colin Kenny	Rideau	Ottawa, Ont.
Pierre De Bané, P.C.	De la Vallière	Montreal, Que.
Eymard Georges Corbin	Grand-Sault	Grand-Sault, N.B.
Brenda Mary Robertson	Riverview	Shediac, N.B.
Norman K. Atkins	Markham	Toronto, Ont.
Ethel Cochrane	Newfoundland and Labrador	Port-au-Port, Nfld. & Lab.
Eileen Rossiter	Prince Edward Island	Charlottetown, P.E.I.
Mira Spivak	Manitoba	Winnipeg, Man.
Roch Bolduc	Gulf	Sainte-Foy, Que.
Pat Carney, P.C.	British Columbia	Vancouver, B.C.
Gerald J. Comeau	Nova Scotia	Church Point, N.S.
Consiglio Di Nino	Ontario	Downsview, Ont.
Donald H. Oliver	Nova Scotia	Halifax, N.S.
Noël A. Kinsella	Fredericton-York-Sunbury	Fredericton, N.B.
John Buchanan, P.C.	Nova Scotia	Halifax, N.S.
John Lynch-Staunton	Grandville	Georgeville, Que.
James Francis Kelleher, P.C.	Ontario	Sault Ste. Marie, Ont.
J. Trevor Eyton	Ontario	Caledon, Ont.
Wilbert Joseph Keon	Ottawa	Ottawa, Ont.
Michael Arthur Meighen	St. Marys	Toronto, Ont.
J. Michael Forrestall	Dartmouth and Eastern Shore	Dartmouth, N.S.
Janis G. Johnson	Winnipeg-Interlake	Gimli, Man.
A. Raynell Andreychuk	Regina	Regina, Sask.
Jean-Claude Rivest	Stadacona	Quebec, Que.
Terrance R. Stratton	Red River	St. Norbert, Man.
Marcel Prud'homme, P.C.	La Salle	Montreal, Que.
Leonard J. Gustafson	Saskatchewan	Macoun, Sask.
David Tkachuk	Saskatchewan	Saskatoon, Sask.
W. David Angus	Alma	Montreal, Que.
Pierre Claude Nolin	De Salaberry	Quebec, Que.
Marjory LeBreton	Ontario	Manotick, Ont.

Senator	Designation	Post Office Address
Gerry St. Germain, P.C.	Langley-Pemberton-Whistler	Maple Ridge, B.C.
Lise Bacon	De la Durantaye	Laval, Que.
Sharon Carstairs, P.C.	Manitoba	Victoria Beach, Man.
Landon Pearson	Ontario	Ottawa, Ont.
Jean-Robert Gauthier	Ottawa-Vanier	Ottawa, Ont.
John G. Bryden	New Brunswick	Bayfield, N.B.
Rose-Marie Losier-Cool	Tracadie	Bathurst, N.B.
Céline Hervieux-Payette, P.C.	Bedford	Montreal, Que.
William H. Rompkey, P.C.	Labrador	North West River, Labrador, Nfld. & Lab.
Lorna Milne	Peel County	Brampton, Ont.
Marie-P. Poulin	Nord de l'Ontario/Northern Ontario	Ottawa, Ont.
Shirley Maheu	Rougemont	Saint-Laurent, Que.
Wilfred P. Moore	Stanhope St./Bluenose	Chester, N.S.
Lucie Pépin	Shawinigan	Montreal, Que.
Fernand Robichaud, P.C.	New Brunswick	Saint-Louis-de-Kent, N.B.
Catherine S. Callbeck	Prince Edward Island	Central Bedeque, P.E.I.
Marisa Ferretti Barth	Repentigny	Pierrefonds, Que.
Serge Joyal, P.C.	Kennebec	Montreal, Que.
Joan Cook	Newfoundland and Labrador	St. John's, Nfld. & Lab.
Ross Fitzpatrick	Okanagan-Similkameen	Kelowna, B.C.
Francis William Mahovlich	Toronto	Toronto, Ont.
Richard H. Kroft	Manitoba	Winnipeg, Man.
Douglas James Roche	Edmonton	Edmonton, Alta.
Joan Thorne Fraser	De Lorimier	Montreal, Que.
Aurélien Gill	Wellington	Mashteuiatsh, Pointe-Bleue, Que.
Vivienne Poy	Toronto	Toronto, Ont.
Ione Christensen	Yukon Territory	Whitehorse, Y.T.
George Furey	Newfoundland and Labrador	St. John's, Nfld. & Lab.
Nick G. Sibbeston	Northwest Territories	Fort Simpson, N.W.T.
Isobel Finnerty	Ontario	Burlington, Ont.
Tommy Banks	Alberta	Edmonton, Alta.
Jane Cordy	Nova Scotia	Dartmouth, N.S.
Yves Morin	Lauzon	Quebec, Que.
Elizabeth M. Hubley	Prince Edward Island	Kensington, P.E.I.
Laurier L. LaPierre	Ontario	Ottawa, Ont.
Viola Léger	Acadie/New Brunswick	Moncton, N.B.
Mobina S. B. Jaffer	British Columbia	North Vancouver, B.C.
Jean Lapointe	Saurel	Magog, Que.
Gerard A. Phalen	Nova Scotia	Glace Bay, N.S.
Joseph A. Day	Saint John-Kennebecasis	Hampton, N.B.
Michel Biron	Mille Isles	Nicolet, Que.
George S. Baker, P.C.	Newfoundland and Labrador	Gander, Nfld. & Lab.
Raymond Lavigne	Montarville	Verdun, Que.
David P. Smith, P.C.	Cobourg	Toronto, Ont.
Maria Chaput	Manitoba	Sainte-Anne, Man.
Pana Merchant	Saskatchewan	Regina, Sask.
Pierrette Ringuette	New Brunswick	Edmundston, N.B.
Percy Downe	Charlottetown	Charlottetown, P.E.I.
Paul J. Massicotte	De Lanaudière	Mont-Royal, Que.
Mac Harb	Ontario	Ottawa, Ont.
Madeleine Plamondon	The Laurentides	Shawinigan, Que.
Marilyn Trenholme Counsell	New Brunswick	Sackville, N.B.
Terry M. Mercer	Northend Halifax	Caribou River, N.S.
Jim Munson	Ottawa/Rideau Canal	Ottawa, Ont.

SENATORS OF CANADA

ALPHABETICAL LIST

(May 4, 2004)

Senator	Designation	Post Office Address	Political Affiliation
THE HONOURABLE			
Adams, Willie	Nunavut	Rankin Inlet, Nunavut	Lib
Andreychuk, A. Raynell	Regina	Regina, Sask.	C
Angus, W. David	Alma	Montreal, Que.	C
Atkins, Norman K.	Markham	Toronto, Ont.	PC
Austin, Jack, P.C.	Vancouver South	Vancouver, B.C.	Lib
Bacon, Lise	De la Durantaye	Laval, Que.	Lib
Baker, George S., P.C.	Newfoundland and Labrador	Gander, Nfld. & Lab.	Lib
Banks, Tommy	Alberta	Edmonton, Alta.	Lib
Biron, Michel	Mille Isles	Nicolet, Que.	Lib
Bryden, John G.	New Brunswick	Bayfield, N.B.	Lib
Buchanan, John, P.C.	Halifax	Halifax, N.S.	C
Callbeck, Catherine S.	Prince Edward Island	Central Bedeque, P.E.I.	Lib
Carney, Pat, P.C.	British Columbia	Vancouver, B.C.	C
Carstairs, Sharon, P.C.	Manitoba	Victoria Beach, Man.	Lib
Chaput, Maria	Manitoba	Sainte-Anne, Man.	Lib
Christensen, Ione	Yukon Territory	Whitehorse, Y.T.	Lib
Cochrane, Ethel	Newfoundland and Labrador	Port-au-Port, Nfld. & Lab.	C
Comeau, Gerald J.	Nova Scotia	Church Point, N.S.	C
Cook, Joan	Newfoundland and Labrador	St. John's, Nfld. & Lab.	Lib
Cools, Anne C.	Toronto-Centre-York	Toronto, Ont.	Lib
Corbin, Eymard Georges	Grand-Sault	Grand-Sault, N.B.	Lib
Cordy, Jane	Nova Scotia	Dartmouth, N.S.	Lib
Day, Joseph A.	Saint John-Kennebecasis	Hampton, N.B.	Lib
De Bané, Pierre, P.C.	De la Vallière	Montreal, Que.	Lib
Di Nino, Consiglio	Ontario	Downsview, Ont.	C
Doody, C. William	Harbour Main-Bell Island	St. John's, Nfld. & Lab.	PC
Downe, Percy	Charlottetown	Charlottetown, P.E.I.	Lib
Eyton, J. Trevor	Ontario	Caledon, Ont.	C
Fairbairn, Joyce, P.C.	Lethbridge	Lethbridge, Alta.	Lib
Ferretti Barth, Marisa	Repentigny	Pierrefonds, Que.	Lib
Finnerty, Isobel	Ontario	Burlington, Ont.	Lib
Fitzpatrick, Ross	Okanagan-Similkameen	Kelowna, B.C.	Lib
Forrestall, J. Michael	Dartmouth and the Eastern Shore	Dartmouth, N.S.	C
Fraser, Joan Thorne	De Lorimier	Montreal, Que.	Lib
Furey, George	Newfoundland and Labrador	St. John's, Nfld. & Lab.	Lib
Gauthier, Jean-Robert	Ottawa-Vanier	Ottawa, Ont.	Lib
Gill, Aurélien	Wellington	Mashteuiatsh, Pointe-Bleue, Que.	Lib
Grafstein, Jerahmiel S.	Metro Toronto	Toronto, Ont.	Lib
Graham, Bernard Alasdair, P.C.	The Highlands	Sydney, N.S.	Lib
Gustafson Leonard J.	Saskatchewan	Macoun, Sask.	C
Harb, Mac.	Ontario	Ottawa, Ont.	Lib
Hays, Daniel Phillip, <i>Speaker</i>	Calgary	Calgary, Alta.	Lib
Hervieux-Payette, Céline, P.C.	Bedford	Montreal, Que.	Lib
Hubley, Elizabeth M.	Prince Edward Island	Kensington, P.E.I.	Lib
Jaffer, Mobina S. B.	British Columbia	North Vancouver, B.C.	Lib

Senator	Designation	Post Office Address	Political Affiliation
Johnson, Janis G.	Winnipeg-Interlake	Gimli, Man.	C
Joyal, Serge, P.C.	Kennebec	Montreal, Que.	Lib
Kelleher, James Francis, P.C.	Ontario	Sault Ste. Marie, Ont.	C
Kenny, Colin	Rideau	Ottawa, Ont.	Lib
Keon, Wilbert Joseph	Ottawa	Ottawa, Ont.	C
Kinsella, Noël A.	Fredericton-York-Sunbury	Fredericton, N.B.	C
Kirby, Michael	South Shore	Halifax, N.S.	Lib
Kroft, Richard H.	Manitoba	Winnipeg, Man.	Lib
LaPierre, Laurier L.	Ontario	Ottawa, Ont.	Lib
Lapointe, Jean	Saurel	Magog, Que.	Lib
Lavigne, Raymond	Montarville	Verdun, Que.	Lib
Lawson, Edward M.	Vancouver	Vancouver, B.C.	Lib
LeBreton, Marjory	Ontario	Manotick, Ont.	C
Léger, Viola	Acadie/New Brunswick	Moncton, N.B.	Lib
Losier-Cool, Rose-Marie	Tracadie	Bathurst, N.B.	Lib
Lynch-Staunton, John	Grandville	Georgeville, Que.	C
Maheu, Shirley	Rougemont	Saint-Laurent, Que.	Lib
Mahovlich, Francis William	Toronto	Toronto, Ont.	Lib
Massicotte, Paul J.	De Lanaudière	Mont-Royal, Que.	Lib
Meighen, Michael Arthur	St. Marys	Toronto, Ont.	C
Mercer, Terry M.	Northend Halifax	Caribou River, N.S.	Lib
Merchant, Pana	Saskatchewan	Regina, Sask.	Lib
Milne, Lorna	Peel County	Brampton, Ont.	Lib
Moore, Wilfred P.	Stanhope St./Bluenose	Chester, N.S.	Lib
Morin, Yves	Lauzon	Quebec, Que.	Lib
Munson, Jim	Ottawa/Rideau Canal	Ottawa, Ont.	Lib
Murray, Lowell, P.C.	Pakenham	Ottawa, Ont.	PC
Nolin, Pierre Claude	De Salaberry	Quebec, Que.	C
Oliver, Donald H.	Nova Scotia	Halifax, N.S.	C
Pearson, Landon	Ontario	Ottawa, Ontario	Lib
Pépin, Lucie	Shawinigan	Montreal, Que.	Lib
Phalen, Gerard A.	Nova Scotia	Glace Bay, N.S.	Lib
Pitfield, Peter Michael, P.C.	Ottawa-Vanier	Ottawa, Ont.	Ind
Plamondon, Madeleine	The Laurentides	Shawinigan, Que.	Ind
Poulin, Marie-P.	Nord de l'Ontario/Northern Ontario	Ottawa, Ont.	Lib
Poy, Vivienne	Toronto	Toronto, Ont.	Lib
Prud'homme, Marcel, P.C.	La Salle	Montreal, Que.	Ind
Ringuette, Pierrette	New Brunswick	Edmundston, N.B.	Lib
Rivest, Jean-Claude	Stadacona	Quebec, Que.	C
Robertson, Brenda Mary	Riverview	Shediac, N.B.	C
Robichaud, Fernand, P.C.	New Brunswick	Saint-Louis-de-Kent, N.B.	Lib
Roche, Douglas James	Edmonton	Edmonton, Alta.	Ind
Rompkey, William H., P.C.	Labrador	North West River, Labrador, Nfld. & Lab.	Lib
Rossiter, Eileen	Prince Edward Island	Charlottetown, P.E.I.	C
St. Germain, Gerry, P.C.	Langley-Pemberton-Whistler	Maple Ridge, B.C.	C
Sibbeston, Nick G.	Northwest Territories	Fort Simpson, N.W.T.	Lib
Smith, David P., P.C.	Cobourg	Toronto, Ont.	Lib
Sparrow, Herbert O.	Saskatchewan	North Battleford, Sask.	Lib
Spivak, Mira	Manitoba	Winnipeg, Man.	Ind
Stollery, Peter Alan	Bloor and Yonge	Toronto, Ont.	Lib
Stratton, Terrance R.	Red River	St. Norbert, Man.	C
Tkachuk, David	Saskatchewan	Saskatoon, Sask.	C
Trenholme Counsell, Marilyn	New Brunswick	Sackville, N.B.	Lib
Watt, Charlie	Inkerman	Kuuujuaq, Que.	Lib

SENATORS OF CANADA
BY PROVINCE AND TERRITORY
(May 4, 2004)

ONTARIO—24

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Lowell Murray, P.C.	Pakenham	Ottawa
2 Peter Alan Stollery	Bloor and Yonge	Toronto
3 Peter Michael Pitfield, P.C.	Ottawa-Vanier	Ottawa
4 Jeremiah S. Grafstein	Metro Toronto	Toronto
5 Anne C. Cools	Toronto-Centre-York	Toronto
6 Colin Kenny	Rideau	Ottawa
7 Norman K. Atkins	Markham	Toronto
8 Consiglio Di Nino	Ontario	Downsview
9 James Francis Kelleher, P.C.	Ontario	Sault Ste. Marie
10 John Trevor Eyton	Ontario	Caledon
11 Wilbert Joseph Keon	Ottawa	Ottawa
12 Michael Arthur Meighen	St. Marys	Toronto
13 Marjory LeBreton	Ontario	Manotick
14 Landon Pearson	Ontario	Ottawa
15 Jean-Robert Gauthier	Ottawa-Vanier	Ottawa
16 Lorna Milne	Peel County	Brampton
17 Marie-P. Poulin	Northern Ontario	Ottawa
18 Francis William Mahovlich	Toronto	Toronto
19 Vivienne Poy	Toronto	Toronto
20 Isobel Finnerty	Ontario	Burlington
21 Laurier L. LaPierre	Ontario	Ottawa
22 David P. Smith, P.C.	Cobourg	Toronto
23 Mac Harb	Ontario	Ottawa
24 Jim Munson	Ottawa/Rideau Canal	Ottawa

SENATORS BY PROVINCE AND TERRITORY

QUEBEC—24

Senator	Designation	Post Office Address
THE HONOURABLE		
1 .Charlie Watt	Inkerman	Kuujuuaq
2 Pierre De Bané, P.C.	De la Vallière	Montreal
3 John Lynch-Staunton	Grandville	Georgeville
4 Jean-Claude Rivest	Stadacona	Quebec
5 Marcel Prud'homme, P.C.	La Salle	Montreal
6 W. David Angus	Alma	Montreal
7 Pierre Claude Nolin	De Salaberry	Quebec
8 Lise Bacon	De la Durantaye	Laval
9 Céline Hervieux-Payette, P.C.	Bedford	Montreal
10 Shirley Maheu	Rougemont	Ville de Saint-Laurent
11 Lucie Pépin	Shawinigan	Montreal
12 Marisa Ferretti Barth	Repentigny	Pierrefonds
13 Serge Joyal, P.C.	Kennebec	Montreal
14 Joan Thorne Fraser	De Lorimier	Montreal
15 Aurélien Gill	Wellington	Mashteuiatsh, Pointe-Bleue
16 Yves Morin	Lauzon	Quebec
17 Jean Lapointe	Sauvel	Magog
18 Michel Biron	Milles Isles	Nicolet
19 Raymond Lavigne	Montarville	Verdun
20 Paul J. Massicotte	De Lanaudière	Mont-Royal
21 Madeleine Plamondon	The Laurentides	Shawinigan
22	
23	
24	

SENATORS BY PROVINCE-MARITIME DIVISION

NOVA SCOTIA—10

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Bernard Alasdair Graham, P.C.	The Highlands	Sydney
2 Michael Kirby	South Shore	Halifax
3 Gerald J. Comeau	Nova Scotia	Church Point
4 Donald H. Oliver	Nova Scotia	Halifax
5 John Buchanan, P.C.	Halifax	Halifax
6 J. Michael Forrestall	Dartmouth and Eastern Shore	Dartmouth
7 Wilfred P. Moore	Stanhope St./Bluenose	Chester
8 Jane Cordy	Nova Scotia	Dartmouth
9 Gerard A. Phalen	Nova Scotia	Glace Bay
10 Terry M. Mercer	Northend Halifax	Caribou River

NEW BRUNSWICK—10

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Eymard Georges Corbin	Grand-Sault	Grand-Sault
2 Brenda Mary Robertson	Riverview	Shediac
3 Noël A. Kinsella	Fredericton-York-Sunbury	Fredericton
4 John G. Bryden	New Brunswick	Bayfield
5 Rose-Marie Losier-Cool	Tracadie	Bathurst
6 Fernand Robichaud, P.C.	Saint-Louis-de-Kent	Saint-Louis-de-Kent
7 Viola Léger	Acadie/New Brunswick	Moncton
8 Joseph A. Day	Saint John-Kennebecasis	Hampton
9 Pierrette Ringuette	New Brunswick	Edmundston
10 Marilyn Trenholme Counsell	New Brunswick	Sackville

PRINCE EDWARD ISLAND—4

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Eileen Rossiter	Prince Edward Island	Charlottetown
2 Catherine S. Callbeck	Prince Edward Island	Central Bedeque
3 Elizabeth M. Hubley	Prince Edward Island	Kensington
4 Percy Downe	Charlottetown	Charlottetown

SENATORS BY PROVINCE-WESTERN DIVISION

MANITOBA—6

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Mira Spivak	Manitoba	Winnipeg
2 Janis G. Johnson	Winnipeg-Interlake	Gimli
3 Terrance R. Stratton	Red River	St. Norbert
4 Sharon Carstairs, P.C.	Manitoba	Victoria Beach
5 Richard H. Kroft	Manitoba	Winnipeg
6 Maria Chaput	Manitoba	Sainte-Anne

BRITISH COLUMBIA—6

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Edward M. Lawson	Vancouver	Vancouver
2 Jack Austin, P.C.	Vancouver South	Vancouver
3 Pat Carney, P.C.	British Columbia	Vancouver
4 Gerry St. Germain, P.C.	Langley-Pemberton-Whistler	Maple Ridge
5 Ross Fitzpatrick	Okanagan-Similkameen	Kelowna
6 Mobina S.B. Jaffer	British Columbia	North Vancouver

SASKATCHEWAN—6

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Herbert O. Sparrow	Saskatchewan	North Battleford
2 A. Raynell Andreychuk	Regina	Regina
3 Leonard J. Gustafson	Saskatchewan	Macoun
4 David Tkachuk	Saskatchewan	Saskatoon
5 Pana Merchant	Saskatchewan	Regina
6		

ALBERTA—6

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Daniel Phillip Hays, <i>Speaker</i>	Calgary	Calgary
2 Joyce Fairbairn, P.C.	Lethbridge	Lethbridge
3 Douglas James Roche	Edmonton	Edmonton
4 Tommy Banks	Alberta	Edmonton
5		
6		

SENATORS BY PROVINCE AND TERRITORY

NEWFOUNDLAND AND LABRADOR—6

Senator	Designation	Post Office Address
THE HONOURABLE		
1 C. William Doody	Harbour Main-Bell Island	St. John's
2 Ethel Cochrane	Newfoundland and Labrador	Port-au-Port
3 William H. Rompkey, P.C.	Labrador	North West River, Labrador
4 Joan Cook	Newfoundland and Labrador	St. John's
5 George Furey	Newfoundland and Labrador	St. John's
6 George S. Baker, P.C.	Newfoundland and Labrador	Gander

NORTHWEST TERRITORIES—1

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Nick G. Sibbeston	Northwest Territories	Fort Simpson

NUNAVUT—1

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Willie Adams	Nunavut	Rankin Inlet

YUKON TERRITORY—1

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Ione Christensen	Yukon Territory	Whitehorse

ALPHABETICAL LIST OF STANDING, SPECIAL AND JOINT COMMITTEES

(As of May 4, 2004)

*Ex Officio Member

ABORIGINAL PEOPLES

Chair: Honourable Senator Sibbeston

Deputy Chair: Honourable Senator Johnson

Honourable Senators:

Austin, (or Rompkey)	Christensen, Fitzpatrick,	Léger, * Lynch-Staunton, (or Kinsella)	Mercer, Sibbeston, St. Germain,
Carney, Chaput,	Gill, Johnson,	Pearson,	Tkachuk.

Original Members as nominated by the Committee of Selection

*Austin (or Rompkey), Carney, Chaput, Christensen, Gill, Johnson, Léger,
*Lynch-Staunton (or Kinsella), Pearson, Mercer, Sibbeston, St. Germain, Tkachuk, Trenholme Counsell.

AGRICULTURE AND FORESTRY

Chair: Honourable Senator Oliver

Deputy Chair: Honourable Senator Fairbairn

Honourable Senators:

Austin, (or Rompkey)	Gustafson, Hubley,	* Lynch-Staunton, (or Kinsella)	Ringuette, St. Germain,
Callbeck, Fairbairn,	LaPierre, Lawson,	Mercer, Oliver,	Sparrow, Tkachuk.

Original Members as nominated by the Committee of Selection

*Austin (or Rompkey), Callbeck, Day, Fairbairn, Fitzpatrick, Gustafson, Hubley, LaPierre,
*Lynch-Staunton (or Kinsella), Oliver, Ringuette, St. Germain, Sparrow, Tkachuk.

BANKING, TRADE AND COMMERCE

Chair: Honourable Senator Kroft

Deputy Chair: Honourable Senator Tkachuk

Honourable Senators:

Angus, Austin, (or Rompkey)	Fitzpatrick, Harb, Hervieux-Payette,	Kroft, * Lynch-Staunton, (or Kinsella)	Meighen, Moore, Prud'homme,
Biron,	Kelleher,	Massicotte,	Tkachuk.

Original Members as nominated by the Committee of Selection

Angus, *Austin (or Rompkey), Biron, Fitzpatrick, Harb, Hervieux-Payette, Kelleher, Kroft,
*Lynch-Staunton (or Kinsella), Massicotte, Meighen, Moore, Prud'homme, Tkachuk.

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

Chair: Honourable Senator Banks

Deputy Chair: Honourable Senator Spivak

Honourable Senators:

* Austin, (or Rompkey)	Buchanan, Christensen,	Finnerty, Kenny,	Merchant, Milne,
Baker, Banks,	Cochrane, Eyton,	* Lynch-Staunton, (or Kinsella)	Spivak.

Original Members as nominated by the Committee of Selection

*Austin (or Rompkey), Baker, Banks, Buchanan, Christensen, Cochrane, Eyton, Finnerty, Kenny, *Lynch-Staunton (or Kinsella), Merchant, Milne, Spivak, Watt.

FISHERIES AND OCEANS

Chair: Honourable Senator Comeau

Deputy Chair: Honourable Senator Cook

Honourable Senators:

Adams,	Comeau,	* Lynch-Staunton, (or Kinsella)	Phalen,
* Austin, (or Rompkey)	Cook, Hubley,	Mahovlich,	Robichaud,
Cochrane,	Johnson,	Meighen,	Trenholme Counsell, Watt.

Original Members as nominated by the Committee of Selection

Adams, *Austin (or Rompkey), Cochrane, Comeau, Cook, Hubley, Johnson, *Lynch-Staunton (or Kinsella), Mahovlich, Meighen, Phalen, Robichaud, Trenholme Counsell, Watt.

FOREIGN AFFAIRS

Chair: Honourable Senator Stollery

Deputy Chair: Honourable Senator Di Nino

Honourable Senators:

Andreychuk,	Corbin,	Grafstein,	Mahovlich,
* Austin, (or Rompkey)	De Bané, Di Nino,	Graham,	Poy,
Carney,	Eyton	* Lynch-Staunton, (or Kinsella)	Sparrow, Stollery.

Original Members as nominated by the Committee of Selection

Andreychuk, *Austin (or Rompkey), Carney, Corbin, De Bané, Di Nino, Eyton, Grafstein, Graham, *Lynch-Staunton (or Kinsella), Mahovlich, Poy, Sparrow, Stollery.

HUMAN RIGHTS

Chair: Honourable Senator Maheu

Deputy Chair: Honourable Senator Rossiter

Honourable Senators:

Austin, (or Rompkey)	LaPierre, * Lynch-Staunton, (or Kinsella)	Maheu, Plamondon, Poy,	Rivest, Rossiter.
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Original Members as nominated by the Committee of Selection

*Austin (or Rompkey), Beaudoin, Ferretti Barth, Jaffer, LaPierre,
*Lynch-Staunton (or Kinsella), Maheu, Munson, Poy, Rivest, Rossiter.

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

Chair: Honourable Senator Bacon

Interim Deputy Chair: Honourable Senator Robertson

Honourable Senators:

Atkins, Austin, (or Rompkey)	De Bané, Eyton, Gauthier, Gill, Jaffer,	Kinsella, * Lynch-Staunton, (or Kinsella) Massicotte, Munson,	Poulin, Robertson, Robichaud, Stratton.
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Original Members as nominated by the Committee of Selection

Atkins, *Austin (or Rompkey), Bacon, Bryden, Cook, De Bané, Eyton, Gauthier, Gill,
Jaffer, Kinsella, *Lynch-Staunton (or Kinsella), Massicotte, Munson, Poulin, Robertson, Stratton.

LEGAL AND CONSTITUTIONAL AFFAIRS

Chair: Honourable Senator Furey

Deputy Chair: Honourable Senator Andreychuk

Honourable Senators:

Andreychuk, Austin, (or Rompkey)	Cools, Furey, Jaffer, Joyal,	* Lynch-Staunton, (or Kinsella) Mercer, Nolin,	Pearson, Rivest, Smith.
--	---------------------------------------	---	-------------------------------

Original Members as nominated by the Committee of Selection

Andreychuk, *Austin (or Rompkey), Baker, Beaudoin, Bryden, Buchanan, Cools, Furey, Jaffer,
Joyal, *Lynch-Staunton (or Kinsella), Nolin, Pearson, Smith.

LIBRARY OF PARLIAMENT (Joint)

Joint Chair: Morin

Vice-Chair:

Honourable Senators:

Forrestall,
Kinsella,

Lapointe,

Morin,

Poy.

*Original Members agreed to by Motion of the Senate**Forrestall, Kinsella, Lapointe, Morin, Poy.*

NATIONAL FINANCE

Chair: Honourable Senator Murray

Deputy Chair: Honourable Senator Day

Honourable Senators:

* Austin,
(or Rompkey)
Biron,
ChaputComeau,
Day,
Doody,
Downe,Finnerty,
Furey,
* Lynch-Staunton,
(or Kinsella)Murray,
Oliver,
Ringuette.*Original Members as nominated by the Committee of Selection***Austin (or Rompkey), Biron, Comeau, Day, Doody, Downe, Ferretti Barth, Finnerty,
Furey, Gauthier, *Lynch-Staunton (or Kinsella), Murray, Oliver, Ringuette.*

NATIONAL SECURITY AND DEFENCE

Chair: Honourable Senator Kenny

Deputy Chair: Honourable Senator Forrestall

Honourable Senators:

Atkins,
* Austin,
(or Rompkey)
Banks,Buchanan,
Cordy,
Day,Kenny,
* Lynch-Staunton,
(or Kinsella)Meighen,
Munson,
Smith.*Original Members as nominated by the Committee of Selection**Atkins, *Austin (or Rompkey), Banks, Cordy, Day, Forrestall, Kenny,
Lynch-Staunton (or Kinsella), Meighen, Munson, Smith.

VETERANS AFFAIRS

(Subcommittee of National Security and Defence)

Chair: Honourable Senator Meighen

Deputy Chair: Honourable Senator Day

Honourable Senators:

Atkins,	Banks,	* Lynch-Staunton,	Meighen.
Austin,	Day,	(or Kinsella)	
(or Rompkey)	Kenny,		

OFFICIAL LANGUAGES

Chair: Honourable Senator Chaput

Deputy Chair: Honourable Senator Rivest

Honourable Senators:

Austin,	Gauthier,	Léger,	Maheu,
(or Rompkey)	Keon,	* Lynch-Staunton,	Munson,
Chaput,	Lapointe,	(or Kinsella)	Rivest.
Comeau,			

Original Members agreed to by Motion of the Senate

** Austin (or Rompkey), Beaudoin, Chaput, Comeau, Gauthier, Keon, Lapointe, Léger, * Lynch-Staunton (or Kinsella), Maheu, Munson.*

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

Chair: Honourable Senator Milne

Deputy Chair: Honourable Senator Andreychuk

Honourable Senators:

Andreychuk,	Fraser,	Losier-Cool,	Ringuette,
Austin,	Grafstein,	* Lynch-Staunton,	Robertson,
(or Rompkey)	Harb,	(or Kinsella)	Smith,
Di Nino,	Hubley,	Milne,	Stratton.
Downe,	Joyal,	Murray,	

Original Members as nominated by the Committee of Selection

*Andreychuk, * Austin (or Rompkey), Di Nino, Downe, Fraser, Grafstein, Harb, Hubley, Joyal, Losier-Cool, * Lynch-Staunton (or Kinsella), Milne, Murray, Ringuette, Robertson, Smith, Stratton.*

SCRUTINY OF REGULATIONS (Joint)

Joint Chair: Honourable Hervieux-Payette

Vice-Chair:

Honourable Senators:

Biron,	Hervieux-Payette,	Lavigne,	Nolin.
Harb,	Kelleher,	Moore,	

Original Members as agreed to by Motion of the Senate

Biron, Harb, Hervieux-Payette, Kelleher, Lavigne, Moore, Nolin.

SELECTION

Chair: Honourable Senator Losier-Cool

Deputy Chair: Honourable Senator Stratton

Honourable Senators:

* Austin,	Fairbairn,	Losier-Cool,	Rompkey,
(or Rompkey)	Kinsella,	* Lynch-Staunton,	Stratton,
Bacon,	LeBreton,	(or Kinsella)	Tkachuk.
Carstairs,			

Original Members agreed to by Motion of the Senate

** Austin (or Rompkey), Bacon, Carstairs, Fairbairn, Kinsella, LeBreton, Losier-Cool, *Lynch-Staunton (or Kinsella) Rompkey, Stratton, Tkachuk.*

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

Chair: Honourable Senator Kirby

Deputy Chair: Honourable Senator LeBreton

Honourable Senators:

* Austin,	Cordy,	LeBreton,	Morin,
(or Rompkey)	Fairbairn,	Léger,	Robertson,
Callbeck,	Keon,	* Lynch-Staunton,	Roche,
Cook,	Kirby,	(or Kinsella)	Rossiter.

Original Members as nominated by the Committee of Selection

** Austin (or Rompkey), Callbeck, Cook, Cordy, Fairbairn, Keon, Kirby, LeBreton, Léger, *Lynch-Staunton (or Kinsella), Morin, Robertson, Roche, Rossiter.*

TRANSPORT AND COMMUNICATIONS

Chair: Honourable Senator Fraser

Deputy Chair: Honourable Senator Gustafson

Honourable Senators:

Adams,	Eyton,	Johnson,	Merchant,
Austin,	Fraser,	LaPierre,	Phalen,
(or Rompkey)	Graham,	* Lynch-Staunton,	Spivak.
Corbin,	Gustafson,	(or Kinsella)	
Day,			

Original Members as nominated by the Committee of Selection

*Adams, *Austin (or Rompkey), Corbin, Day, Eyton, Fraser, Graham, Gustafson, Johnson, LaPierre, *Lynch-Staunton (or Kinsella), Merchant, Phalen, Spivak.*

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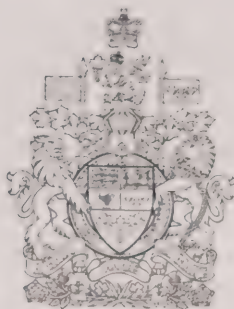
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CANADA

Debates of the Senate

3rd SESSION

• 37th PARLIAMENT

• VOLUME 141

• NUMBER 37

OFFICIAL REPORT
(HANSARD)

Wednesday, May 5, 2004

—
THE HONOURABLE DAN HAYS
SPEAKER



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(Daily index of proceedings appears at back of this issue).

Debates and Publications: Chambers Building, Room 943, Tel. 996-0193

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THE SENATE

Wednesday, May 5, 2004

The Senate met at 1:30 p.m., the Speaker in the Chair.

[English]

Prayers.

TD CANADA TRUST SCHOLARSHIPS FOR COMMUNITY LEADERSHIP

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, before proceeding to Senators' Statements, I would like to draw your attention to the presence in our gallery of the participants in the Spring 2004 Parliamentary Officers Program. They represent parliamentary bodies from various countries in the world, and some of us have had the pleasure of meeting with them during their two-week stay here. On behalf of the members of the Senate of Canada, welcome to our chamber.

Hon. Donald H. Oliver: Honourable senators, yesterday I was honoured to attend the National Awards Ceremony of the TD Canada Trust Scholarships for Community Leadership in Toronto. Twenty outstanding Canadian high school students with exceptional academic credentials were chosen from 3,300 candidates across our country to receive the coveted \$60,000 scholarships. The 20 students representing the true diversity of Canada have each made extraordinary contributions to their community.

SENATORS' STATEMENTS

MULTIPLE SCLEROSIS AWARENESS MONTH

Hon. Yves Morin: Honourable senators, May is Multiple Sclerosis Awareness Month. Here is a fact you may not know: Multiple sclerosis, best known for attacking adults in the prime of their life, also affects children as young as three. The Toronto Chapter of the Multiple Sclerosis Society of Canada certainly was aware of this fact as it was receiving calls from parents whose children had been diagnosed. Its officials worked with Toronto's Hospital for Sick Children to establish the first Paediatric Multiple Sclerosis Clinic in North America and probably the world. Today the clinic now regularly follows over 90 children.

The Toronto Paediatric Multiple Sclerosis Clinic serves the unique needs of children with this disease and their families. It also provides a unique opportunity to advance our knowledge about what causes multiple sclerosis. Earlier this year, researchers from the clinic were able to show a possible association between multiple sclerosis and the Epstein-Barr virus that causes mononucleosis.

Yesterday, the Multiple Sclerosis Society of Canada and the Multiple Sclerosis Scientific Research Foundation announced a new \$4.3-million study of children in 22 Canadian centres. This study will allow researchers to explore the biological factors involved in the development of multiple sclerosis.

[Translation]

Honourable senators, multiple sclerosis is a disease whose prevalence is higher in Canada. It appears that our children can also be affected. Since this is Multiple Sclerosis Month, let us give our support to the researchers who are trying to discover the causes of this terrible affliction.

Once again, honourable senators, I was honoured to have been a judge of the candidates from Ontario. I had the opportunity to interview some of the most talented, enthusiastic and bright young students who are the true future of Canada. It gave me great pride to see the strength that we have in our high school graduates.

Each TD Canada Trust Scholarship is valued at up to \$60,000 and includes full tuition for up to four years of study at any approved university or college in Canada, \$5,000 a year toward living expenses for up to four years while attending university or college, and an offer of summer employment with TD Canada Trust during the years of the scholarship.

Honourable senators, the TD Canada Trust Scholarship is one of the most outstanding scholarship programs in Canada, for it emphasizes not just academic credentials but young Canadian students who have already distinguished themselves by their extraordinary concern for the people and environment around them.

As Her Excellency Governor General Adrienne Clarkson said in a forward to yesterday's program:

Canadians accept certain responsibilities towards each other as part of the duty of citizenship. This group of scholarship recipients exemplifies that duty and responsibility through the ways in which they have applied their unique skills to solve problems and create opportunities in their communities. They have already gone beyond the call of duty to help others, and their full potential has not yet been reached.

Honourable senators, a number of other members of this chamber also have served as judges in this important Canadian contest. This year, the Honourable Marilyn Trenholme Counsell and the Honourable Landon Pearson were also judges.

Honourable senators, I am honoured to salute the 20 excellent recipients of this year's TD Canada Trust Scholarships for Community Leadership.

EIGHTIETH ANNIVERSARY OF CANADIAN AIR FORCE

[Translation]

Hon. Jane Cordy: Honourable senators, the Royal Canadian Air Force was formed on April 1, 1924, by Royal Warrant. Today, I take the opportunity to recognize the eightieth anniversary of the Royal Canadian Air Force, now the Canadian Air Force. It is on this occasion that I wish to honour all Canadian Air Force personnel, past and present, who have served not only in the Royal Canadian Air Force but also in the Royal Flying Corps and the Royal Naval Air Service during World War I. It is with this in mind that I wish to pay tribute to two Nova Scotians who led distinguished careers serving Canada and the RCAF.

Born in New Aberdeen, just outside of Glace Bay, Harold "Gus" Edwards was working the mines in Cape Breton at the onset of World War I. Mr. Edwards promptly joined the Royal Naval Air Service and was soon flying missions along German lines, providing support for ground troops. It was on one of these missions that he was shot down and became a prisoner of war. He was eventually released, and on completion of his duties, returned home to continue his career. In the 1930s, Gus Edwards was named squadron leader in charge of the RCAF in Dartmouth. When war broke out again in 1939, Gus Edwards continued to move up the ranks to Air Marshal. He was stationed in London, England, in charge of RCAF operations for Canadians in the Royal Air Force and those in Canadian squadrons.

• (1340)

Another Cape Bretoner who rose to the rank of Air Marshal and Canada's Chief of Air Staff was Clarence Rupert "Larry" Dunlap. Born in Sydney Mines in 1908, Mr. Dunlap earned a Bachelor of Science degree in Electrical Engineering from Acadia University. Following his graduation in 1928, Larry Dunlap was accepted for pilot training in the Royal Canadian Air Force. He was one of many young Canadians recruited in the 1920s for the rapidly developing air force. From the lowest commissioned rank, Larry Dunlap earned his way to Air Marshal and Canada's Chief of the Air Staff, and in 1964 became Deputy Commander in Chief of NORAD, a position he held until his retirement in 1968.

Both men were inspired when they were young by the aviation achievements of Alexander Graham Bell, Casey Baldwin and John McCurdy, who successfully completed the first controlled flight in the British Empire on February 23, 1909, in Baddeck, Cape Breton. As a youngster, Mr. Dunlap had the opportunity to watch U.S. Navy HS-2L flying boats take off and land from a base at North Sydney. Mr. Dunlap once reminisced of his childhood as follows: "On the same perch from which, up to that time, I had watched fishing schooners sail out of Sydney Harbour, I now had an even more exciting picture, that of flying boats cavorting about the sky."

Gus Edwards and Larry Dunlap were just two of many Canadians in the Royal Canadian Air Force. We are indebted to these men and to all the men and women who have served and continue to serve our country Canada.

QUEBEC FILM INDUSTRY

GENIE AWARDS

Hon. Jean-Claude Rivest: Honourable senators, for many years, the dynamism and vitality of artistic creation in Quebec have been recognized, not only in Quebec, but also throughout Canada and on the international scene. It is important for me, as a Quebecker and a Canadian, to underscore the exceptional performance by Quebec's filmmakers, who walked away with most of the trophies at the Canadian film industry's annual Genie Awards, last Sunday in Toronto.

In addition to the creators and artists, I should also point out the exceptional vitality of the Quebec film industry in recent years. The constant and substantial support from the Quebec public for its films, which are an outstanding expression of Quebec's identity, is one reason Canada may envy Quebec.

Honourable senators, while Canadian cinema has managed to attract only 2 or 3 per cent of the English Canadian audience in Quebec, Quebec cinema attracts nearly 15 per cent of Quebecers. For all of French-speaking Canada combined, this percentage might be greater. This is no doubt one of the reasons Quebec's filmmakers have been able to show the vitality of Quebec's cultural identity. They are helping to build the Canadian cultural identity in a major way and giving Quebec and Canada an international cultural presence worthy of admiration.

[English]

For those who missed it at the time of the Meech Lake Accord, this is exactly what we mean by "Quebec distinct society."

UNITED NATIONS COMMISSION ON HUMAN RIGHTS

ELECTION OF CANADA AS MEMBER STATE

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I should like to make a statement concerning the happy occasion that was alluded to yesterday during Question Period, namely, that Canada has been elected as a member state of the United Nations Commission on Human Rights.

Honourable senators will recall that, in 1945, at the San Francisco conference founding the United Nations, the decision was taken to create the first functional commission, and it indeed was the Commission on Human Rights. Canadians have played an active role in the work of the United Nations Commission on Human Rights from that date, including such outstanding contributions as that made during the process of the drafting of the Universal Declaration of Human Rights by the Commission on Human Rights, then chaired by Ms. Eleanor Roosevelt and so ably and creatively assisted by Professor John Peters Humphrey, to whom many attribute the first draft of the Universal Declaration of Human Rights.

Canada has, honourable senators, been elected on several other occasions to membership on the Commission on Human Rights, but not always being a member of the UN Commission on Human Rights has Canada played the leadership role that it, in my opinion, ought to be playing. On many occasions, Canada has played a leadership role and been very creative — for example, when our representative was our colleague Senator Andreychuk, and on many occasions when the representative of Canada was Ambassador Yvon Beaulne.

I would urge the government to take clear steps to ensure that the individual representing Canada on the UN Commission on Human Rights will be a Canadian who, with respect to human rights, is creative. Honourable senators, if there is an area of international public policy that needs creativity today, in the world of post 9/11, it seems to me it is the field of human rights.

I would therefore encourage the Government of Canada to send a most senior representative to fill the chair of Canada on the UN Commission on Human Rights.

QUESTION PERIOD

OFFICE OF INFORMATION COMMISSIONER

ADEQUATE FUNDING—BACKLOG OF FILES

Hon. Donald H. Oliver: Honourable senators, my question is for the Leader of the Government in the Senate and it has to do with the issue of access to information.

Two weeks ago, Mr. Chuck Guité told the House of Commons Standing Committee on Public Accounts that virtually no information was put on the sponsorship files to thwart Access to Information requests.

The same week, Information Commissioner John Reid told Parliament that the government is not adequately funding his office at a time when the “culture of keeping records in the Government of Canada has broken down.” For example, he stated that his office has insufficient funds to track the impact of new legislation on the Access to Information Act.

• (1350)

Since Mr. Reid made his comments, has the Government of Canada taken any steps to verify their accuracy; and, if they are true, what steps will be taken to ensure that the Information Commissioner is able to adequately enforce Canada’s access to information laws?

Hon. Jack Austin (Leader of the Government): Honourable senators, I will take the question as notice.

Senator Oliver: Honourable senators, I should like to ask a supplementary question, and perhaps the Leader of the Government in the Senate could also take it as notice.

Six years ago, the Information Commissioner’s office could begin an investigation within four months of an allegation. Now, when someone files a complaint that a government official has withheld information, it takes six to ten months to commence an investigation. Currently, there is a backlog of more than 1000 cases.

Does the government find this to be an acceptable delay, and if not, what steps will be taken to clear up the backlog?

Senator Austin: Honourable senators, I thank Senator Oliver for the question and I will add it to the notice.

PUBLIC SERVICE COMMISSION

FEDERAL STUDENT WORK EXPERIENCE PROGRAM— AVAILABILITY OUTSIDE OTTAWA REGION

Hon. A. Raynell Andreychuk: Honourable senators, as some of you know, the Federal Student Work Experience Program is in place to assist full-time students in universities, colleges, technical institutes and CEGEPs — in other words, full-time post-secondary students — to gain some work experience with the federal government during their summer break. This work helps students to understand what the federal service is; and they should be, therefore, one of the best pools of future employment for our public service.

I have been contacted by students who tell me that this program is not, in fact, a federal program in that it is only geared to the Ottawa area, in the main. Given that most of the jobs are in the Ottawa area for the federal service, it makes it difficult for students who live outside of Ottawa to participate.

Having been given this information, I looked up the details of the program on the Department of Justice Canada Web site, and I found the following description of the program:

...fair and equal access to student jobs offered by the Public Service of Canada and opportunities to learn about the federal government and gain valuable experience while developing and improving their employability skills.

However, if you contact the Justice Department, they will tell you that they place students from the capital region first.

This matter has been brought to the government’s attention. Does it continue to utilize this entire federal program for the benefit of students from the Ottawa region only?

Senator Kinsella: Good question.

Senator Forrestall: We will get a good answer as usual.

Hon. Jack Austin (Leader of the Government): Honourable senators, I thank Senator Andreychuk for her detailed and specific question, and I will take the question as notice.

Senator Andreychuk: Honourable senators, as a supplementary question, there is some urgency because these are placements are being made now.

The number of jobs available in the Saskatchewan Justice Department is approximately two. Almost all of the jobs that are available are here in the Department of Justice, which is a very large department, and those jobs are going to Ottawa students.

Year in and year out, this has been brought to the government's attention. How can we equalize the opportunities for young Canadians? How can they go to school in a university in Saskatchewan or British Columbia and participate in a federal program to which they have absolutely no access? The jobs are being filled as we speak. Can the minister give some assurance that there will be equal and fair access to all Canadian students?

Senator Austin: Honourable senators, again, I will take the question as notice. However, I would say, without having any specific information to offer, that I take it that Senator Andreychuk is making a representation that the Government of Canada should fund both the transportation of students from other locations in Canada to Ottawa and their living costs while in Ottawa.

Senator Andreychuk: Quite the opposite. These students are willing, of their own volition, to come to Ottawa and to house themselves. All they are asking for is the chance to be treated equally in the job application process. They will make the effort to come here — and British Columbia and Nova Scotia are as much affected by this as Saskatchewan and Manitoba — to get the experience because they cannot get it any other way. They are willing to come here of their own volition and house themselves here; but their applications are not being treated equally because they are not attending post-secondary institutions in the capital region.

We know that there are only two universities in this city. There is anecdotal evidence that some students have taken up postal codes in this area in order to get fairer treatment. Surely this is not the way to treat students, our investment for the future?

Senator Austin: I would be delighted if Senator Andreychuk could enhance the representations I intend to make by providing me with names and examples so that I could press specific cases, as well as the general case.

CITIZENSHIP AND IMMIGRATION

REFUGEE CLAIM BY MR. ERNST ZUNDEL

Hon. David Tkachuk: Honourable senators, last February Ernst Zundel was deported to Canada from the United States. Despite promises from the government that he would be quickly dealt with, he is still here.

As many people had feared, he seems to be pleased to drag out the court process surrounding the issuing of a national security certificate against him for as long as possible. Mr. Zundel and his supporters have used the resulting media attention to promote his anti-Semitic ideas. It is disturbing to see some people presenting Mr. Zundel as a civil rights champion for putting our legal system through so many twists and turns when he was, in fact, declared a security risk to this country.

My question is — and I have asked this before and I will continue to ask it until I receive an answer — how much longer will Ernst Zundel be in our country, and how much has this cost the Canadian taxpayer to date?

Hon. Jack Austin (Leader of the Government): Honourable senators, the answer I gave previously is the answer again today. Mr. Zundel is the subject of judicial proceedings to determine the questions that Senator Tkachuk has presented. Our system of laws, as Senator Tkachuk knows, is balanced in favour of the presumption of innocence of the person who is the subject of the proceeding. The Crown has the obligation of demonstrating why he should be removed.

Senator Tkachuk: It may have that obligation, honourable senators, but all this wrangling over Mr. Zundel might have been avoided had he been deported to Germany as soon as Canadian officials verified his identity.

Could the Leader of the Government in the Senate tell us if the Department of Citizenship and Immigration has conducted some sort of review as to what happened when Mr. Zundel was initially deported here, and why he was not immediately turned over to German authorities, as they had requested?

Senator Austin: Honourable senators, Mr. Zundel has the right to the benefits of Canadian law, and he has the right to use our judicial process; and he is exercising that right.

ROYAL CANADIAN MINT

TRAVEL EXPENSES OF EX-PRESIDENT

Hon. Marjory LeBreton: Honourable senators, my question is for the Leader of the Government in the Senate. Last night on the CBC, we heard new evidence that George Radwanski is not the only public official who has abused public funds. Three years ago, Danielle Wetherup, then-president of the Royal Canadian Mint, billed Canadian taxpayers \$6,000 for a two-week trip to Italy, of which only two days were spent on business — one day with Alfonso Gagliano and Gina Lollobrigida, and one day at a meeting with some regional officials in Sicily. In the meantime, she billed the Royal Canadian Mint for her stays at luxury hotels, and even sent the taxpayers a tab for a visit to the spa in one of the hotels.

Could the Leader of the Government in the Senate explain how it is possible for anyone to submit a bill for two weeks' travel and not be asked to justify how the time was spent? For that matter, could he explain how it is possible that Canadian taxpayers are asked to pay for a personal massage at a spa and not have someone in the department question the claim?

Hon. Jack Austin (Leader of the Government): Honourable senators, I am impressed that a number of honourable senators recognized the name Gina Lollobrigida — and I confess that I am one of them.

As for the balance of the question, I have not seen that news report, but I have no doubt that if that is the case, the government will review the matter.

• (1400)

Senator LeBreton: Honourable senators, Ms. Wetherup has now left the mint. Does the government have any intention of trying to retrieve the money that was billed to the taxpayers for her European vacation?

Senator Austin: I will take that question as notice.

ENVIRONMENT

SPECIES AT RISK LISTING PROCESS

Hon. Mira Spivak: Honourable senators, when the Species at Risk Act was before us some 18 months ago, not only senators on this side but also the environment committee in the House of Commons advocated that scientists should be given the responsibility to compile the official list of species at risk. The government should be given the responsibility of deciding what if anything to do to protect these species. We ended up with a compromise because we cannot always draft legislation that is logical and sensible. That compromise is an act that gives the Governor in Council the right to compile the official list within nine months of receiving the recommendation of COSEWIC, which is the committee of scientific experts.

The act was proclaimed last June. We are told that 12 of the 91 species most recently named by COSEWIC are in legal limbo. They are neither officially listed nor referred to by the Governor in Council. The species include Atlantic cod, Fraser River salmon and a Lake Winnipeg snail threatened by pollution and development. Harbour porpoises and bottlenose whales are also listed. They die in nets set for other species off the Atlantic Coast. The Sierra Club of Canada says that COSEWIC scientists have identified some of those species at risk for six years or more.

As nothing can be done to legally protect those species until they are listed, why have those dozen species not been listed? The more fundamental question is: Why is not sound science at the root of government decisions?

Hon. Jack Austin (Leader of the Government): Honourable senators, I was wondering what was the connection between Gina Lollobrigida and species at risk. I inquired of Senator Rompkey, but he did not have the answer.

With respect to the question, which is a serious one, I am sure that Senator Spivak is aware that the determination to list a species at risk in the schedule is based on science and other factors, including economic issues, issues with respect to communities and the connection of the activity that takes place with respect to that particular species.

If a species is clearly at risk, I am confident that the Governor in Council will list the species. Perhaps in the case of the number of species — I believe it was 15 — that were part of the science committee recommendations that were not listed, the Governor in Council took other factors into account.

Senator Spivak: With all due respect, the point of the question is this: It is not that the government does not have the responsibility to decide what to do; the question is one of listing species at risk. It is now the government that lists these species on the advice of

the committee, not the committee that lists the species. It would have been far better for the scientists to list species at risk based on their scientific information, and then the government would have the responsibility and the right to decide what to do with the list.

Will the opposition to scientific listing be reconsidered.

Senator Austin: Honourable senators, everything is subject to reconsideration. I will draw the attention of the Minister of the Environment to Senator Spivak's recommendations.

We both understand the question, but we may have a different way of proceeding with the answer.

FOREIGN AFFAIRS

SYRIA—POSSIBLE TARGETING OF EMBASSY BY TERRORISTS

Hon. J. Michael Forrestall: Honourable senators, last week a terrorist attack was directed at the United Nations offices in Damascus, Syria. The attack happened close to the Canadian Embassy. There has been some suggestion in the Israeli press that Canadians might have been the targets. Can the government leader shed any light on this view?

Hon. Jack Austin (Leader of the Government): Honourable senators, I have no specific information, but I have seen a view expressed that we were not in any way intended to be a target. However, I have not been able to speak with the terrorists who planned the attack.

Senator Forrestall: Honourable senators, when the minister establishes contact, would he please let us know?

Senator Austin: When I have the contact.

PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

PROTECTION OF FOREIGN SERVICE STAFF AGAINST TERRORIST ATTACK

Hon. J. Michael Forrestall: Honourable senators, Saif al-Adel, a top al-Qaeda military commander, has repeatedly stated that killing Canadians is a priority. Sadly, a Canadian was one of the people seriously wounded last weekend in a militant attack on a Saudi petroleum facility.

In light of what seems to be a growing trend of violence against Canadians individually and against Canadian property, what new steps is the government considering for the protection of property and, more important, the Canadians in those countries?

Hon. Jack Austin (Leader of the Government): Honourable senators, I have not seen any evidence to indicate that the attack in Yanbu, Saudi Arabia, was directed against a Canadian. It seemed that it was directed against foreigners without any concern for the Saudi Arabian citizens who were also there. No evidence that I have seen indicates that Canada is being singled out either with respect to our property or persons.

I do acknowledge that the honourable senator is correct in his reference to Canada being included as one of a number of countries on an al-Qaeda list.

FOREIGN AFFAIRS

IVORY COAST—DISAPPEARANCE OF JOURNALIST

Hon. Jack Austin (Leader of the Government): Honourable senators, while I am on my feet, I would like to respond to the question asked by Senator Prud'homme yesterday with respect to journalist Guy André Kieffer. I have the communiqué issued by the Assemblée parlementaire de la francophonie which makes representations with respect to Mr. Kieffer.

I understand, but I do not have a document, that Mr. Kieffer has been reported as deceased. That is only a report, as to this time there has been no specific evidence in that regard.

• (1410)

PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

CORRECTIONAL SERVICES—USE OF REWARDS PROGRAM OCCASIONS FOR SMUGGLING

Hon. Gerry St. Germain: Honourable senators, my question is to the Leader of the Government in the Senate. It relates to a story published in an Ottawa newspaper on May 2, 2004.

It was reported that Correctional Service of Canada has instituted a policy that allows inmates access to fast foods while in prison. According to the report, inmates at several federal penal institutions are able to choose food from McDonalds, Kentucky Fried Chicken, a submarine sandwich shop or even a Chinese restaurant. Correctional Service Canada has admitted that this is not a fixed program and that institutions are left with a wide degree of discretion. Correctional Service Canada has also admitted that these sorts of rewards are common practice in our institutions when a unit has been what is called "incident-free" for a long period of time.

The article goes on to report that inmates are abusing this special privilege to smuggle drugs into our facilities. One veteran correctional officer said, "There is always a risk that they will slip in some dope under the pizzas."

Would the Leader of the Government in the Senate explain why, if this program is posing more of a risk than anything else, it is being allowed to continue, and why are guards being used as pawns in a scenario that potentially places entire institutions at risk by the smuggling of weapons or drugs into the facility?

Hon. Jack Austin (Leader of the Government): Honourable senators, I have not seen the report. However, listening to the report as presented by the honourable senator, two points occur to me: First, in the penal system, as in so many other areas that require a psychological management base to their objectives, reward and punishment practices are part of the system. Second, in allowing prisoners access to fast food, I am not sure whether Senator St. Germain means that that is a reward or a punishment.

Senator St. Germain: Honourable senators, for those of us who come from Main Street and not Bay Street, fast foods have been part of our menu. I am sure that Senator Rompkey, being from Labrador, can verify that.

In the same report, we learned that, while most of the food is delivered, sometimes a staff member from the institution is dispatched to fetch the food.

Honourable senators, we have seniors in this country who are struggling to pay their rent and to eat properly. In certain cases, it has been pointed out that some seniors have resorted to eating food prepared for animals.

I am sure Canadians are asking what is going on, especially our seniors, when prisoners have fast food at their disposal, conjugal visits, clean needles, condoms and a host of other items.

As to a reward system, the reward is released from the institution. I am sure most Canadians would question these types of privileges for inmates.

In addition, when staff members are away picking up food for the inmates, who is left to protect the vault? The inmates are running the facility, by the sound of things. Could the Leader of the Government in the Senate provide a comment on that subject?

Senator Austin: Honourable senators, while I do not have any specific information in regard to the story in the newspaper, I do know that the purpose of our policy, as a government, with respect to people who are incarcerated, is rehabilitation. To provide a process of rehabilitation, people are encouraged to rehabilitate themselves and to behave in an appropriate manner that will allow them to serve as successful citizens in the normal community.

There is much in the philosophy of the honourable senator. If that is the honourable senator's philosophy, then I do not share it.

There is a risk that materials brought into a prison may be used to hide improper goods. However, measures can be taken to discern whether those goods are being brought in.

Society is not perfect. Prison guards will sometimes behave in ways they ought not to but, on the whole, I do not think there can be any denial that, in this day and age, we want all of our citizens to be law-abiding and productive. When certain citizens have not been productive for a period of time, we wish to provide every foundation to encourage them to return to society as contributing citizens.

Senator St. Germain: Honourable senators, I agree that there must be a rehabilitation program. However, having fast food delivered to inmates or staff being required to pick up that fast food causes some problems. We know that there is generally a shortage of staff in these institutions.

I return to my original concern in regard to the seniors in this country. I have seen increases on the pension cheques of seniors. Those increases are a mere pittance. Most of these people cannot afford to buy food at fast food outlets, even if they wanted to, because of the small amounts of money they have at their disposal. We are spending money on providing what I would consider to be a privileged-type service to our inmates.

As much as I agree with rehabilitation and what the honourable senator has pointed out, this program goes too far. I do not believe that Canadians, who are understanding and compassionate and who also want people to be rehabilitated, would go along with this being a necessity.

Senator Austin: Honourable senators, let me hypothesize with respect to staff. Is not sending a staff person a safer step to take, rather than allowing someone who has not been identified or cleared to bring products to the prison?

If it is the judgment of the warden and senior management of the prison that this is a step that enhances tranquility, then you have reduced the risk of harm to the staff. It seems to me that underlying what Senator St. Germain is addressing may be a sane and sensible policy.

With respect to seniors, an unrelated subject, the honourable senator ought not to compare the circumstance of a senior with the circumstance of a prisoner. With respect to seniors and taking the question as a separate issue, I would agree that some seniors are living in difficult circumstances in this country and the government must address that issue. However, it is also a responsibility of not only government, but also of the community and the families of those seniors, when they have a family that can assist them. Government cannot do everything in society, as Stephen Harper has often said.

Senator St. Germain: That is the best quote of the day.

VETERANS AFFAIRS

ANNOUNCEMENT OF NEW CHARTER—
COMMENTS BY MINISTER

Hon. Michael A. Meighen: Honourable senators, yesterday the government announced its new veterans charter designed to ease military veterans' reintegration into civilian life. While we on this side welcome this long overdue initiative, it does not come a moment too soon, since we also learned yesterday that an alarming number of our troops leave the Canadian Forces within the first year of joining up.

What intrigued me about yesterday's announcement was a statement by the Minister of Veterans Affairs in which he said that traditional veterans and their pensions would not be adversely affected by the announcement. He then said some, "... may well benefit by the work being done for our CF clients."

This is an interesting formulation. Once again, it points to the possibility of inequitable or unequal treatment of our military veterans. In making this announcement, the government was careful to distinguish between traditional veterans and their modern counterparts.

My question for the Leader of the Government in the Senate is as follows: When the minister says that some traditional veterans may benefit, who does he mean and why only some? I thought that, since 1991, a veteran was a veteran was a veteran and anybody who had been trained in the Canadian Forces was a veteran.

Why did the minister say that? Why did he also say "may benefit" rather than "will benefit"? If I cannot be provided with an answer to this question today — and I suspect the Leader of the Government in the Senate will be unable to provide it to me — I would ask him to seek out the answer and to table the response in this house at the earliest opportunity.

Hon. Jack Austin (Leader of the Government): Honourable senators, I will certainly seek the more specific answer that the honourable senator has requested and, if he has a supplementary question, I will seek out a response to that as well.

• (1420)

NATIONAL DEFENCE

EFFICACY OF RECRUITMENT
AND RETENTION PROGRAM

Hon. Michael A. Meighen: The Leader of the Government is very prescient. I do, indeed, have a supplementary. It is a follow-up to a point I referred to in my rather long-winded introduction.

It refers specifically to a May 4 article in the *Journal de Montréal*. The headline on that article is as follows:

[Translation]

Up to 25 per cent of soldiers quit after less than one year of service.

This statistic comes from Department of National Defence internal documents.

[English]

My question for the Leader of the Government in the Senate is this: What is happening? Clearly, the vaunted recruitment and, in particular, the retention program is not working. What plans does the government have to make it work?

Hon. Jack Austin (Leader of the Government): I shall take the honourable senator's question as notice.

However, I should like to point out to the Honourable Senator Meighen that the Veterans Charter is pointed in particular at plans to help Canada's veterans reintegrate into civilian life upon discharge. I am not at all sure whether it is directed at people who serve for only one or two years, because the plan is designed, in the main, to assist military people who have carried out a full term of service.

Senator Meighen: Just to clarify my point, honourable senators, I asked two different questions, and they were not necessarily linked. I would point out to the Leader of the Government in the Senate that in 1945, we had a reintegration program for members of the Armed Forces that was the envy of the world. Let us get it back up to that.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Bill Rompkey (Deputy Leader of the Government:
Honourable senators, I have the honour to present delayed answers to five oral questions posed in the Senate.

The first two responses are to oral questions posed by the Honourable Senator Forrestall on March 29 regarding the Aurora Incremental Modernization Project and regarding the Maritime Helicopter Project. The third delayed answer is to a question posed by Senator LeBreton on March 22, regarding the status of Communication Canada. The last two responses are to questions posed by the Honourable Senator Meighen on April 21, regarding the Halifax class mid-life refit and acquisition of new supply and transport ships, and regarding the acquisition of new equipment for the Canadian Forces and its availability to troops deployed to Afghanistan in the fall of 2004.

NATIONAL DEFENCE

AURORA INCREMENTAL MODERNIZATION PROJECT— TENDER FOR DATA MANAGEMENT SYSTEM

(Response to question raised by Hon. J. Michael Forrestall on March 29, 2004)

The original Data Management System contract was awarded to General Dynamics Canada on 30 May 2002 for a value of \$197,639,176.

The first Contract Amendment, adding the requirement to deliver one Operational Mission Simulator to Greenwood, Nova Scotia, to train tactical crews, was completed on 17 April 2003. This requirement was included as an option in the original Request For Proposals. The first amendment was valued at \$39,421,654.

These values do not include the 15 per cent Harmonized Sales Tax payable as the equipment is being delivered in the province of Nova Scotia.

The second Contract Amendment, adding additional work requests required by the Crown, was completed on October 14, 2003. The second amendment was valued at \$2,025,193, bringing the current contract value to a total of \$239,086,023.

REPLACEMENT OF SEA KING HELICOPTERS— TENDER FOR DATA MANAGEMENT SYSTEM

(Response to question raised by Hon. J. Michael Forrestall on March 29, 2004)

The data management system being produced for the Aurora Incremental Modernization Project is not the same system that will be used for the Maritime Helicopter Project. It is impossible to compare the two programs as they are significantly different in scope and execution.

While there are some similarities in the basic technical requirements for data management in both projects, there are major differences in the sensors that will be managed, in the manner in which data will be presented and in the environment in which the system will operate.

The Maritime Helicopter Project is planning to select a single prime contractor who will provide a turnkey solution to DND. Schedule performance for the contract will be solely the responsibility of the prime contractor, whereas both the Crown and the company share responsibilities under the Aurora Incremental Modernization Project.

Therefore, it is inappropriate and incorrect to use the implementation plan for the Aurora project as an indicator of performance for the Maritime Helicopter Project.

If proposals are received from both bidders in response to the Request for Proposals for the Maritime Helicopter Project, they will both be assessed in a fair and proper manner. It would be inappropriate to carry out any evaluation before the proposals are received.

PUBLIC WORKS AND GOVERNMENT SERVICES

STATUS OF COMMUNICATION CANADA

(Response to question raised by Hon. Marjory LeBreton on March 22, 2004)

PWGSC is currently undertaking a review of those programs of the former Communication Canada which have been transferred to it. The objective of the review is to determine the most cost-effective way in managing these programs to best meet the needs of Canadians. While we don't know the final results of this review, and hence any costs associated with these changes, the important issue to keep in mind are the millions to be saved from the elimination of the sponsorship program, reduced funding levels for other programs, and a 15 per cent reduction in media placement spending over the next three years.

On April 1, 2004 the Government of Canada transferred from Communications Canada to the Privy Council Office control and supervision of the Regional Operations Branch, except that portion known as Outreach; the Public Opinion Research and Analysis directorate; the Information Services, forming part of the Communications Services Branch, with the exception of the Electronic media monitoring services; and the Communications Support Group, forming part of the Communications Branch.

While approximately 105 Full Time Equivalents (FTEs) were transferred to the Privy Council Office on April 1, 2004, costs associated with these changes have not been finalized yet.

NATIONAL DEFENCE

AFGHANISTAN—ACQUISITION
OF NEW EQUIPMENT—AVAILABILITY
TO TROOPS DEPLOYED ON NEXT MISSION

(Response to question raised by Hon. Michael A. Meighen on April 21, 2004)

The Prime Minister announced the Government's intention to purchase new equipment for the Canadian Forces, including Support Ships, a Mobile Gun System, fixed-wing Search and Rescue aircraft and Maritime Helicopters.

Because these capital equipment projects have long lead times, none will have entered service with the Canadian Forces by August 2004.

That said, prior to the Afghanistan deployment in 2003, and in order to be prepared for a variety of situations on the ground for our current mission, the Canadian Forces deployed a variety of equipment and vehicles, including new Unmanned Aerial Vehicles, light utility vehicles (G Wagon, ILTIS), light armoured vehicles (LAV III, Coyotes), counter battery radar and light artillery guns to Afghanistan.

After Canada's current military commitment ends in August, the Canadian Forces will remain in Afghanistan with a reduced presence. National Defence is in the process of determining what types of equipment will be required for this new role.

UPGRADE TO FRIGATES—ACQUISITION
OF NEW SUPPLY AND TRANSPORT SHIPS

(Response to question raised by Hon. Michael A. Meighen on April 21, 2004)

With regard to Canada's frigates, the Navy has a plan in place to modernize the Halifax Class Frigates. This is planned to commence in 2010 and is expected to be completed by 2017.

The Halifax Class Modernization Program will ensure that the Halifax Class will remain a viable capability until the end of their service lives.

With regard to the Government's recently announced intention to purchase new ships for the Navy, no commercial off-the-shelf variant of the new Support Ships exists. Accordingly, these ships will be designed and built for the Navy in accordance with the current ship building policy, which states that federal ships will be built in Canadian shipyards should competitive conditions exist.

The Minister of National Defence has stated his intention to ask his officials to investigate building incentives into the contracts for the new Support Ships in order to accelerate the delivery date.

ORDERS OF THE DAY

PARLIAMENT OF CANADA ACT

BILL TO AMEND—THIRD READING—
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Morin, seconded by the Honourable Senator Downe, for the third reading of Bill C-24, to amend the Parliament of Canada Act.

Hon. Michael Kirby: Honourable senators, I rise to make a few brief comments on Bill C-24, which was considered by the Standing Senate Committee on Social Affairs, Science and Technology.

As honourable senators know, the committee attached to its report a series of observations that I would suggest honourable senators read. While we reported the bill without amendment, we think some of the points we have made in the observations are important for members of this chamber to understand. I should like to comment briefly on a couple of those observations.

In particular, the observations point out that the purpose of the bill is to allow parliamentarians aged between 50 and 55 to continue receiving health, dental and life insurance benefits even though they are not entitled to receive their pension benefits until age 55. When the Members of Parliament Retiring Allowances Act was amended at the beginning of this session of Parliament, restricting MPs from receiving their pension benefits until age 55, a resulting gap occurred between retirement and the time the retiring MP would be able to receive his or her health, life and dental benefits. That is so because under the existing program one cannot receive one's health benefits until one actually starts to receive one's pension. Thus, there is a period that now exists between the ages of 50 and 55 when a retiring member of Parliament not only is not able to receive pension benefits but also he or she is unable to receive health benefits. Bill C-24 addresses that gap which, frankly, occurred inadvertently. As the evidence before the committee pointed out, no one seemed to have thought about that.

Officials explained to the committee that the amendment to the Parliament of Canada Act would place parliamentarians on the same footing as public servants. However, evidence from other witnesses made it clear that public servants who decide to retire and leave the public service do not have the option of benefit plan coverage between the ages of 50 and 55, unless they also receive their pension. That is to say, public servants cannot retire, not take their pension and still receive this benefit. There was a clear conflict between some of the evidence given to the committee in part by public servants and in part by the unions who were involved.

Indeed, witnesses from the Public Service Alliance of Canada confirmed that what this bill does is provide a degree of special treatment for members of Parliament, in that it gives them a benefit beyond that which is available to federal public servants.

On the other hand, it is important to note that federal public servants have an advantage that retiring parliamentarians do not, in that federal public servants can take their pension earlier than age 55, albeit a reduced pension, thus becoming eligible to receive their life, health and dental benefits.

Therefore, in its observations, the committee noted that the act regarding pensions should have been amended as opposed to the Parliament of Canada Act. In so amending the pension legislation, retiring parliamentarians would be allowed to take a reduced pension between the ages of 50 and 55, in which case their health, life and dental benefits would have flowed automatically. Since that was not done, the cure approached is through Bill C-24. Thus, we recommended that, in the next session of Parliament, changes be made to the Members of Parliament Retiring Allowances Act.

Honourable senators, I should point out that this issue arose because there is a member of the House of Commons who is retiring for health reasons, is under the age of 55 and who, therefore, would not be eligible for medical benefits until the age of 55. This is a very serious case, which this bill attempts to address.

The way the bill is written, it applies to all members of Parliament. Instead of addressing the isolated incident, it has turned into a broad policy change.

The committee pointed out what, typically, would have happened in the private sector under these same circumstances. That is to say, there would have been a negotiation between the employer of the individual who was retiring early and the insurance company who was providing the benefits. They would have found a way to deal with the single one-off case as opposed to having to make a broad policy change.

At the committee, we pressed officials hard on why that was not done. They said it could not have been done. That might be true, given the conditions that are attached to providing benefits to parliamentarians. On the other hand, those of us on the committee did think there probably could have been a way to deal with a one-off situation, without going into such a basic policy change.

We are also concerned that neither the government nor the committee knows what the implications of this bill will be with respect to future collective bargaining. When there is a situation where the government says before the committee that this benefit is exactly the same as that available to senior public servants and the unions come forward and say that it is not, it seems to me that if I were sitting on the side of the unions I would say, "Automatically, you have given us that in the next round of negotiations because you have already said we have it; since you are wrong, we presume you will give it to us gratis, as it were." It is not clear what the implications will be in the long term.

• (1430)

Finally, honourable senators, I should point out that one reason the committee took this bill seriously, why we had two sessions dealing with it and heard from a series of witnesses, is

that this bill was fast-tracked in the other place. It went through all three stages in less than 60 minutes. I think it was closer to 25 minutes, but it is hard to tell when you read Hansard. Our view was this: Why should a bill that confers a benefit on parliamentarians be zipped through that quickly and not be subjected to the rigorous process that normally ought to go with any piece of legislation? Hence, we decided to do a thorough and competent job with respect to the bill.

In conclusion, honourable senators, in light of the fact that there is a parliamentarian who must retire because of severe medical problems and who needs the coverage, the committee decided to report the bill without amendment. However, we do so pointing out that we think there was probably a way to handle it as a single transaction and that, if it were to be done, it should have been done by changing the Members of Parliament Retiring Allowances Act to allow members to take a reduced pension before the age of 55 rather than doing it in this way.

On behalf of the committee, I will be writing to the various ministers involved, pointing out that we should like to see that change introduced when, as typically happens following an election, the issue of benefits to members comes forward. I hope that at that time the committee will deal with that issue. If it is not dealt with in the package, I would think the committee will want to add to it.

Finally, while we realize this bill was important because it fixed a gap that was totally inadvertent, it would be fair to say on behalf of the committee that we would be extremely reluctant to deal with a bill that addresses the issue of benefits to members of Parliament in such a rapid fashion, if we were asked to do it again. If that happened, we would want to make haste very slowly, because, frankly, this kind of thing should not be jammed through. If it were not for the specific case for which every committee member has considerable sympathy, we would have been more reluctant to approve it.

Having said that, I would urge the chamber to pass Bill C-24. I hope we will deal with it this week.

Hon. Donald H. Oliver: Honourable senators, I have a question for Senator Kirby.

I should first like to commend Senator Kirby on what I think is an excellent report. Both in the written report and in his comments today, he referred to the so-called private-sector method of dealing with such cases, which is to approach the insurer to see if something could be worked out. Did he or anyone on his behalf make such an inquiry? If there were a private-sector method of dealing with this, there would be no need to pass the bill.

I am aware of Senator Kirby's background in mathematics. Both in the report and in his oral comments today, he indicated that he does not know the full implications, mathematically or financially, of what this measure might cost in the next set of negotiations.

Could the honourable senator give us any figures as to the magnitude of the cost of this public policy change?

Senator Kirby: Honourable senators, on the second question, no, I cannot. It would depend, first, on whether it is ultimately included in a collective agreement and, second, on how many people decide to actually retire early and not take their pension until age 55. To the best of my knowledge, there is no data on that proposal, because everyone who has retired early has taken his or her reduced pension in order to keep the health benefits.

With respect to first question, the dilemma is that in a private-sector situation, even in a union-contract situation, it is quite legitimate for the employer to decide to give an increased benefit, which is what this amounts to, out of compassion to an individual retiring employee. However, under the acts that govern payments to parliamentarians, that degree of flexibility does not exist, because all monies paid to parliamentarians, both through the retirement program and through actual parliamentarians still serving, have to come under specific pieces of legislation. Hence, there cannot be a situation where the employer, whether it is deemed to be the House of Commons or the Government of Canada, can make a one-off agreement for a single individual. That is just not allowed.

The Hon. the Speaker: Honourable senators, I should perhaps clarify, before I put the motion, that even though Senator Lynch-Staunton, as Leader of the Opposition, has unlimited time, the first speaker on the opposition side by agreement shall have 45 minutes, in the event it is not Senator Lynch-Staunton.

It is agreed, honourable senators?

Hon. Senators: Agreed.

On motion of Senator Lynch-Staunton, debate adjourned.

WESTBANK FIRST NATION SELF-GOVERNMENT BILL

THIRD READING

Hon. Ross Fitzpatrick moved third reading of Bill C-11, to give effect to the Westbank First Nation self-government agreement.

He said: Honourable senators, I rise today with a strong sense that we are participating in a very important step in history with third reading of Bill C-11, to give effect to the Westbank First Nations Self-government Agreement. As I mentioned at second reading, this is the culmination of a process started over 14 years ago by Chief Robert Louie and council, a model process in democracy involving the band members both on and off the reserve, as well as non-band members living on the reserve, and being inclusive of the youth and elders. I believe it will resonate across this country and provide a positive and constructive path to other self-government agreements under the federal government's inherent right policy.

Honourable senators, the implementation of this agreement will benefit not only members of the First Nation and residents on

Westbank lands, but also other bands across the country. This self-government agreement will show by example what can be accomplished and how it can contribute to a viable economy and good governance for First Nations of Canada.

A key objective of self-government is to create a stable, legitimate, accountable and progressive First Nation-governance regime to replace reliance on the Indian Act. A significant aspect of this improved First Nation governance involves providing certainty for all persons having interests in First Nations lands, as well as improving the foundation for economic and social development.

Honourable senators, under the Indian Act, much of the decision-making power rests with the Minister of Indian Affairs and Northern Development rather than with local First Nation governments. Decision-making power is thus removed from the local environment. The existing decision-making process can be lengthy, complicated, and dispute resolution mechanisms may be unclear. This leads to delays, indecision, uncertainty and the appearance of a lack of transparency for investors; as a result, investors may feel that investment on-reserve is risky.

Enacting the Westbank First Nation Self-government Agreement will remove the Minister of Indian Affairs and Northern Development from the decision-making process and will replace him or her with a First Nation government regulated by a locally developed constitution that will reflect the customs and aspirations of the Westbank First Nation. Decisions will be timely, transparent and accountable. Investors will be assured by the certainty that vesting power locally will provide.

The agreement also sets forth clear dispute resolution mechanisms for those having an interest in Westbank First Nation lands. Any Westbank law, action or decision may be challenged in the Province of British Columbia's courts. Westbank First Nation will be able to sue and be sued.

Westbank First Nation must operate according to the terms and conditions of the agreement, which clearly provides that Westbank First Nation government and its institutions will be bound by the Canadian Charter of Rights and Freedoms and the Canadian Human Rights Act.

Westbank First Nation government will be regulated by a community constitution.

• (1440)

As required by the agreement, Westbank First Nation has developed and ratified a constitution that provides for democratic and legitimate elections of government, internal financial management and accountability to members, conflict of interest rules and public notification of Westbank First Nation laws and land rules. It also provides for the removal of elected councillors for violation of the constitution or breach of oath of office. The constitution was developed by Westbank First Nation members and reflects the needs and aspirations of the community. Simply, it represents the community's vision of how it should operate now and in the future.

Under the provisions of the agreement, Westbank First Nation may assume jurisdiction over areas that, for the most part, already exist under the Indian Act. Westbank First Nation will establish an accountable and effective government capable of exercising law-making authority in a number of agreed-upon subject matters including culture, language, education, and land and resource management.

The agreement provides for the continuation of the terms and conditions of all existing leases while enabling Westbank First Nation to grant interests and licences on its lands as well as to regulate and provide appeal procedures for landlord and tenant matters. It will provide the freedom to establish partnerships and conduct business in a manner that meets local needs.

Westbank First Nation has already demonstrated an exceptional ability to manage its affairs responsibly. This is one of the most successful, business-oriented and progressive Aboriginal communities in Canada. The First Nation opened some of its lands to development several years ago and has become a busy and respected landlord. Today, Westbank's commercial district features a number of shopping centres that generate substantial rental income and provide numerous job opportunities for band members. The commercial activity has also fostered a sense of entrepreneurship among Westbank First Nation members. More than 100 Aboriginal-owned businesses are now members of the local chamber of commerce.

Honourable senators, Bill C-11 will also have a positive influence on the regional economy. Westbank First Nation is already an active member of the Central Okanagan Regional District's Economic Development Commission. Following self-government, Westbank First Nation will be able to more fully contribute to the Economic Development Commission as well as to create new and stronger ties with other surrounding municipalities. Westbank will be able to fully participate in the Green Economic Sustainable Development and the Okanagan Partnership, both of which are collaborative regional approaches to make the Okanagan-Similkameen economy more diverse and competitive while adhering to the principles of green sustainable development.

Honourable senators, economic development is best sustained in the long term when decisions are made locally by the people most affected by them. Upon implementation of the agreement, the people of Westbank will be able to identify emerging opportunities, select those that are acceptable to the community, and then pursue them promptly and decisively. With a stable, representative and effective government in place, the First Nation will be better able to attract investors and business partners. Local entrepreneurs can expand existing partnerships and establish new ones, thus stimulating the economy.

Westbank's growing prosperity has produced benefits for all band members. The First Nation runs its own school and community centre, a provincially licensed daycare and early-education centre, and an intermediate care facility for the

elderly. Westbank also maintains several recreational facilities including beaches, campgrounds and baseball diamonds.

I believe this self-government agreement will result in even greater economic opportunities that will produce more social dividends to the band members and non-band residents, as well as to the surrounding communities.

I urge all honourable senators to lend their support to Bill C-11 and to support the Westbank First Nation as it moves to realize its potential and fulfil its aspirations of self-sufficiency and stability. Clearly, all Canadians stand to benefit.

Hon. Gerry St. Germain: Honourable senators, I am pleased to rise today and conclude my remarks on the third reading debate of Bill C-11. As Senator Fitzpatrick said, this is a huge and positive step for all Canadians, but a giant step for the people of Westbank, some of whom are with us today. They will at last control their own destiny. As a leading businessman in the community, Senator Fitzpatrick knows how much opportunity there is in that area, not only for British Columbians but also and especially for the Westbank First Nation.

I have made my views known on where I stand and where I believe the vast majority of Canadians stand. We must rectify and restore the rightful place of Aboriginal peoples in our nation's make-up. I believe that the courts got it right when they determined that the Crown and the Aboriginal people must negotiate how the Aboriginal people are to govern themselves under the sovereign nation state of Canada. I believe that all honourable senators want this chamber to always consider the views of all Canadians and to do what is right for Canadians. Canadians demand to be heard, and I believe that Parliament must hear them. Government must stop using its majority in a dictatorial form to ram legislation through. The information we were given indicates that too many residents of Westbank were kept in the dark to a degree. When they asked for someone to listen, they were turned away and, in effect, silenced. It is important to listen to minorities because we can learn an awful lot.

I am grateful that the Senate committee addressed this aspect of the government's behaviour. My political leader, Stephen Harper, the Conservative caucus and, I am sure, the majority of colleagues in this place support the purpose of Bill C-11. However, there are two lingering concerns for some people. One is that the adoption of the bill will create a third order of government and that non-Aboriginal residents and some Aboriginal members will lose or have their Canadian constitutional rights diminished in some measure. The present government of Westbank has repeatedly assured Parliament that non-member and non-Aboriginal residents will have real input on the matters that affect them.

The creation of the advisory council will be one of the first actions of the new government. The elected members of the council will be democratically responsible to the Westbank government, which, in turn, is democratically responsible to the people on the land.

The other major concern is that a third order of government will be created. The Canadian Constitution does not contemplate and does not allow a wholly new third order of government, yet the fear exists. Some believe that they will be governed by a whole new entity and that they will lose something they once had. People have been made to feel that they will be uprooted and lose their investment in the community. That, honourable senators, is just plain wrong. However, it is another compelling reason for Parliament to rid the country of the failed social experiment that has so poisoned the relationship with Aboriginals — the Department of Indian Affairs and Northern Development.

I believe that the new Westbank government will govern by doing the right things. There are many types of government in Canada, and Westbank will be its own unique form of government. There is no template. First Nations, municipalities and provincial governments are all different. Westbank First Nation will have some municipal-type powers, some federal-type powers, some provincial-type powers and some uniquely First Nations powers. The jurisdictional areas or powers of operation are detailed to the extent possible in the agreement and constitution that was ratified by the First Nations and the federal Crown, and the Westbank First Nation members democratically voted on its adoption. Electors voted in favour three times, with three majority decisions.

In short, honourable senators, adoption of Bill C-11 will not create a wholly new third order of government. One may say that a new order of government will exist for two areas; namely, that the Westbank First Nation government will hold sovereign constitutional powers over their culture and their lands, which I believe they should. All other powers of government remain under the sovereign constitutional powers of the federal Crown and, in certain areas, the provincial Crown. The creation of First Nations self-government does not create sovereign states independent of the sovereign state of Canada. The constitutional description of the divisions of power has not been altered. We must all remember that the assertion that Aboriginal peoples have a right to self-government has in fact come from Canada's highest court, the court charged with the interpretation of and protection of Canada's Constitution and our system of law making.

• (1450)

Honourable senators, there are solutions to the issues raised by Canadians. Parliament need only listen. Again, I would like to thank Senator Fitzpatrick for his professionalism in dealing with this bill and the way he has dealt with our ability to summon witnesses.

To conclude, honourable senators, I would ask that the question be put and that Bill C-11 be passed so that the residents of Westbank can build a better future for themselves and all those British Columbians who live in and around Westbank. Thank you, honourable senators.

[Translation]

Hon. Aurélien Gill: Honourable senators, I too want to express my satisfaction and congratulate my colleagues from both sides of this chamber for their constant support and non-partisan attitude when it comes to First Nations issues. I particularly want to thank them in connection with the Westbank agreement.

I thank Senator Fitzpatrick for his constant work and his unflagging determination in promoting the cause. I thank Senator St. Germain, who always supports First Nations causes. I would like to thank the current council led by Chief Robert Louie and all the previous councils of the community that worked on this agreement.

Honourable senators, it is always an accomplishment to conclude such an agreement. This is what we need: this agreement will serve as an example of courage, tenacity and innovation. Let us recognize the work of all those who made a contribution. Nothing is perfect. It is normal that there be concerns and even major disagreements. We are moving into unfamiliar territory; we are moving slowly but surely.

We must leave the status quo behind. We must create our own governments to manage our affairs. The Westbank First Nation has succeeded, against all the odds, in staying the course by harnessing the respective abilities of one and all. The disagreements are understandable and the questions are relevant, but I am confident that the Westbank self-government will grow and find positive answers to all the questions, particularly those raised by opponents.

There is no magic formula, only good intentions. And there is every indication that the Westbank government has good intentions.

[English]

Once again, congratulations to the Aboriginal and non-Aboriginal people of Westbank, and good luck.

Hon. Edward M. Lawson: Honourable senators, I have a brief intervention. It is refreshing and pleasing to hear a presentation such as the one made by Senator Fitzpatrick on this issue. I would also compliment the quality of the presentation by Senator St. Germain on the other side on this historic matter. I will vote for the bill. It seems to me that it would be fitting that presentations of this quality by senators would result in a unanimous vote in favour of third reading of the bill.

The Hon. the Speaker *pro tempore*: Are honourable senators ready for the question?

Hon. Senators: Question!

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read third time and passed.

INTERNATIONAL TRANSFER OF OFFENDERS BILL

SECOND READING

Hon. Ione Christensen moved second reading of Bill C-15, to implement treaties and administrative arrangements on the international transfer of persons found guilty of criminal offences.

She said: I appreciate the opportunity to rise and move second reading of Bill C-15, entitled the "International Transfer of Offenders Act." The proposed measures will replace the current Transfer of Offenders Act of 1978. I am pleased to offer my support to this bill because it will further the commitment of humanitarian objectives for which Canada is internationally known, and it will ultimately contribute to public safety. Some 25 years ago, member states of the United Nations agreed that the international transfer of offenders was desirable because of the increased global mobility of individuals and the need for countries to cooperate on criminal justice matters.

Soon thereafter, the Canadian government brought forward the Transfer of Offenders Act to authorize the implementation of treaties between Canada and other countries through the negotiation of both bilateral treaties and multilateral conventions for the international transfer of offenders.

Central to the current act and the replacement that we are considering today is its humanitarian purpose. This becomes apparent if one considers the circumstances of a citizen of Canada incarcerated in a country whose language and culture are unknown to him, the environment is unfamiliar, and unsatisfactory health and sanitary conditions may prevail. These factors, in many instances, make imprisonment more onerous than might be the case had a similar penalty been imposed in Canada. For every person incarcerated abroad there are family and friends at home concerned and in most instances unable to maintain regular contact and offer support to the offender.

There are also other reasons that justify the international transfer of offenders, honourable senators. The Transfer of Offenders Act provides a significant level of public protection. An offender incarcerated in a foreign state may have no opportunity to rehabilitate himself either because of language barriers or through the absence of treatment or training programs.

In foreign jurisdictions, opportunities for any form of conditional release are significantly impaired. Because of this, the chances for successful reintegration of the offender and the ultimate public safety are greatly reduced. By allowing Canadian offenders to serve their sentences in Canada, the Transfer of Offenders Act ensures they are immediately delivered to the authority of the Correctional Service of Canada or provincial correctional authority which can proceed toward gradual and controlled reintegration of the offender into society. Gradual and supervised release under sentence is far better than having the offender simply deported back to Canada at the end of his sentence with no controls whatsoever.

As in many other areas of international cooperation, most nations wish to cooperate with one another in areas of criminal justice. All states prohibit certain conduct and attempt to control it through the enforcement of criminal law and penalties. It is evident that countries have a common interest in working together to prevent and to respond to criminal conduct. This is exactly what arrangements for the transfer of offenders allow states to do. Such cooperation actually protects the sovereignty of both states involved by preventing offenders from escaping justice. Once returned to Canada, the offender must complete

the foreign sentence. At times there may be confusion about the mechanisms of extradition, deportation and provisions for the movement of offenders under the Transfer of Offenders Act. It is important to explain the differences.

• (1500)

Extradition occurs when a person is surrendered by a state at the request of another state where that person is accused of having committed a crime or has been convicted of a crime and has left the jurisdiction in which the sentence should be served. Extradition to or from Canada is carried out under the Extradition Act.

Deportation involves the removal of a non-Canadian citizen from Canada under the Immigration and Refugee Protection Act. A non-Canadian citizen serving a custodial sentence in Canada for a crime committed in Canada may be deported to his or her country of citizenship if the requirements of the act are met. However, unlike offenders transferred under the Transfer of Offenders Act, deported offenders are not subject to their Canadian sentence upon returning to the country of citizenship.

As in the case of the extradition proceedings, deportation will often take place without the consent of the individual who is subject to the deportation order. However, under the Transfer of Offenders Act, consent is required by the citizen in custody, by the country of origin, and by the country imposing the sentence. They are all required to give consent to the transfer, and if a province or a territory is involved, then a fourth party must also give consent.

As has been noted, honourable senators, the Transfer of Offenders Act came into force in 1978. Since then, only technical amendments have been made to the act, although more substantive issues have been identified. Policy questions relating to international transfers have expanded because of Canada's greater experience with treaties and legislative amendments brought about by the Corrections and Conditional Release Act in 1992; Bill C-41, on sentencing, in 1995; and Bill C-45, on sentence calculation reform, in 1996.

As a result, in 1997 officials of the Department of the Solicitor General began consultations with 91 private sector and government agencies that then conducted a comprehensive review of the Transfer of Offenders Act. The consultations and review process yielded proposals to amend the Transfer of Offenders Act that would reflect traditional international treaty principles, close identified gaps in the act, ensure consistency with other legislative provisions and improve efficiencies.

In recent years, statements of purpose and principle have been added to the federal legislation to provide a clear indication of the intent of the legislation, to ensure parliamentary endorsement of the approach and policy behind the legislation, and to serve as an aid to the implementation of the provisions. Bill C-15 would do exactly that. It would specify that the purpose of the proposed international transfer of offenders act is to contribute to the administration of justice, to the rehabilitation of offenders and to the reintegration of offenders into the community by enabling them to serve their sentences in their home country.

Over the years, Canada has promoted key principles to guide the international transfer of offenders, in particular the notion of voluntary consent of the offender, which is based on the traditional humanitarian objective of treaties. The prospects of an offender's successful rehabilitation, institutional adjustment and community reintegration likely would be compromised if an offender were forced to transfer against his or her will. As well, foreign states might be less inclined to approve a transfer on humanitarian grounds if the offender did not provide willing consent.

Honourable senators, Bill C-15 would also contain the important principle that offenders are to be informed in advance of the terms and the manner in which their sentences will be completed in Canada. Similarly, the bill would require that a foreign offender in Canada requesting transfer to his or her home country must be provided with the information received from the foreign state describing how the sentence will be served in that state. This would ensure that the offender's consent to the transfer is truly informed.

All treaties that Canada has signed under the existing legislation reflect the principle of verified consent. This principle requires the sentencing state to give the receiving state an opportunity to verify, prior to the transfer, that the offender's consent is given voluntarily. This is important because the prospects of the offender's reintegration into the community likely would be compromised if he or she did not wish to be willingly transferred. This is why Bill C-15 would set out the requirement that all reasonable steps be taken to determine whether an offender's consent has been given willingly. Key to voluntary consent is the offender's right to withdraw consent any time before the physical transfer takes place. Bill C-15 would incorporate this right in legislation, which is consistent with the humanitarian and consensual underpinnings of the transfer process.

Honourable senators, the treaties signed by Canada reflect certain obligations that are considered essential from a legal perspective. For example, treaties generally include the requirement that countries inform foreign nationals in their respective jurisdictions of the existence and substance of a treaty. Without such knowledge, the offender would not be in a position to request a transfer to his or her home country. Currently, there is no legislation to compel Canada to meet this obligation with respect to foreign citizens sentenced in Canada. To address this failing in the current legislation, Bill C-15 would require that a foreign offender under federal or provincial jurisdiction in Canada be informed of the existence and substance of an international transfer treaty between Canada and the offender's country of citizenship.

Honourable senators, as you can see, the modernization of the existing Transfer of Offenders Act involves a number of matters that are necessary in law, even though they may appear to be matters of pure common sense. One of these is continued enforcement, which is recognized in most transfer of offenders treaties. This administrative procedure allows the receiving state to continue enforcing a foreign sentence according to its domestic laws. Bill C-15 would explicitly incorporate this important procedure in the proposed international transfer of offenders act.

Transfer of offenders treaties generally provide that the receiving state shall not interfere with the findings of guilt and the sentence imposed by that state. Non-aggravation of the sentence is a concept that underlies criminal law. Non-aggravation means "not extending the total length of a sentence." It can be more broadly defined as "no aggravation of the administration of the sentence." This would also take into consideration parole eligibility dates. For example, Bill C-15 would maintain this important principle: Foreign sentencing could not be aggravated after the transfer to Canada has taken place.

In some foreign states, the sentence begins from the date that the individual is taken into custody, rather than from the sentencing date. In Canada, correctional authorities calculate the parole eligibility date from the date of imposition of the sentencing. Bill C-15 would make it clear that an offender transferred to Canada is given credit for any time spent in confinement in the foreign state that has been credited by that state toward completion of the sentence.

Honourable senators, in respect of specific offences, the current Transfer of Offenders Act does not distinguish between offenders convicted of a single murder or of multiple murders. To ensure consistency with the Criminal Code, Bill C-15 would ensure that offenders transferred to Canada serving multiple life sentences for murder would be subject to the 25-year parole eligibility rule as prescribed by the Criminal Code. This would further the important objective of the legislation that offenders transferred to Canada do not escape justice.

• (1510)

Honourable senators, the rule of dual criminality is satisfied where an act is "criminal" in one state and has the same general qualifications in the other. This is a rule recognized by international law and is a requirement of most treaties signed by Canada because the enforcement of a foreign sanction for an offence that does not exist in Canada — the consumption of alcohol, for example — could violate essential constitutional principles or contravene protected fundamental human rights. Bill C-15 would set out dual criminality as a condition of transfer.

The current Transfer of Offenders Act makes provisions for the transfer to Canada of young offenders committed to custody but not for young offenders on probation. This is inconsistent with the provisions that allow for the transfer of adult offenders either on probation or in custody. Bill C-15 would address this anomaly by providing for the transfer of young offenders on probation.

Moreover, honourable senators, there is no provision in the current act that allows for the transfer of Canadian children. Bill C-15 would provide for the transfer to Canada of children less than 12 years of age. The bill would also specify that children transferred to Canada would not be detained by reason of the foreign sentence and would be dealt with in accordance with the law of the receiving province or territory.

No provision is made in the current Transfer of Offenders Act or in any other Canadian statute for the international transfer of persons judged not criminally responsible on account of mental disorders or unfit to stand trial. To address this issue, Bill C-15 would authorize the negotiation of administrative arrangements with the authorities of a foreign state for the transfer of persons with mental disorders to or from Canada. This change would also further the humanitarian purpose of the transfer of offender scheme.

Honourable senators, as children, mentally disordered people and offenders serving sentences under provincial jurisdictions would also be included in the new transfer scheme, Bill C-15 would ensure that due deference is shown to our provincial partners in making it clear that their consent would be required in all cases under their jurisdiction.

As mentioned, both countries involved in the transfer of the sentenced offender, as well as the offender, must consent to the transfer. Obviously, one or the other may refuse to consent to the transfer. At present, there is no legislative requirement that a foreign offender in Canada be informed of the reasons the minister decided not to grant his or her request to transfer to his or her home country. It is vital that the offender be advised of the reasons of a negative decision and be given the opportunity to present observations to have that decision reversed. By setting out this requirement, Bill C-15 would ensure consistency with the Corrections and Conditional Release Act, the common law "duty to act fairly" and our Canadian Charter of Rights and Freedoms.

Honourable Senators, most transfer of offenders treaties contain clauses for appropriate action to be taken by the receiving state when the sentencing state has granted a pardon to the offender or reduced the offender's original conviction or sentence. Bill C-15 would clarify that Canada must defer to the foreign state's decision to grant relief. Canada would then take appropriate actions to grant relief in accordance with the foreign sentence. Conversely, the bill would require that a foreign state be advised of any relief granted by Canada in respect to a foreign offender so the offender may benefit from that measure.

In deciding to approve or disapprove the transfer of an offender, the transfer of offenders regulations currently set out considerations that must be taken into account; for example, whether the offender left Canada with the intent of abandoning Canada as his or her place of permanent residence or whether the offender had social or family ties in Canada. Since the considerations for transfer are important to the decision making process, Bill C-15 ensures that they are expressly stated in the new international transfer of offenders act.

Honourable senators, the current Transfer of Offenders Act provides that Canada may enter into a treaty, international agreement, arrangement, or convention for the international transfer of offenders only with recognized states. The dissolution of the U.S.S.R. and Yugoslavia highlight the problem of dealing with territories or jurisdictions not yet recognized as foreign states. Several years may pass before some jurisdictions are formally recognized as "foreign states." In the interim, under

existing law, Canada cannot enter into a treaty with them. There may also be instances where a treaty has been negotiated but its ratification may be years away. Canadians incarcerated in these jurisdictions and offenders from these foreign entities do not have access to the international transfer process.

Also, some foreign states may be less inclined to consider a more formal arrangement with Canada but are willing to negotiate less formal arrangements for the transfer of offenders on a case-by-case basis. To give offenders access to international transfers in such circumstances, Bill C-15 would authorize the negotiation of an administrative arrangement with a foreign state or a non-state entity. This would make the legislation more responsive to international developments. It would allow Canada to bring its citizens home, particularly where compelling circumstances exist. However, let it be clear that these transfers will always result in the foreign sentence being served under the supervision of Canadian correctional authorities so that the subject may be gradually and safely reintegrated into society.

Honourable senators, the development of transfer arrangements is beneficial to most offenders. To date, a limited number of states are bound by treaties and conventions on the transfer of offenders. On average, about 85 Canadians are transferred annually to Canada under a treaty or a multiple convention for the transfer of offenders as put in place under the Transfer of Offenders Act. However, the proposal will broaden the class of offenders having access to international transfers. On humanitarian grounds alone, this is highly desirable.

Again, the priorities of the legislation before us are to ensure that Canada remains a full-fledged international participant in matters of criminal justice and to take a humanitarian stance that is not only the right thing to do but also will serve as an example to others. Serving the sentence in a foreign state often increases its severity. I would emphasize that this is not purely a matter of interest to Canadians in foreign jails but to any national who may wish to transfer between countries that are signatories to a multiple convention. If an offender is obliged to serve sentence in a foreign state and is then deported home at the end of the sentence, there is neither the opportunity nor the encouragement to reintegrate into his or her community in a controlled manner. Public safety is put at risk, and it is certainly not in the interests of the community nor the offender.

The government is making every effort to obtain humane treatment for its citizens incarcerated abroad by participating fully in the international community. By providing for the negotiation and implementation of administrative arrangements in addition to regular treaties, Bill C-15 would allow for the promotion of humanitarian objectives in significant areas that are not now accessible. Moreover, there is no doubt that by broadening the category of state and non-state entities with which Canada could transfer offenders, Bill C-15 would better serve the objectives of public protection through rehabilitation.

Objections based on the belief that the enforcement of foreign sentences will infringe Canada's national integrity or that the foreign sentence will be improperly enforced in Canada are unfounded. These objections are fuelled by fear of the unknown

rather than by informed policy reasons. This chamber should not allow such objections to stand in the way of forward-looking efforts to modernize legislation that has already proven its worth in its current form.

• (1520)

Honourable senators, Canada's Transfer of Offenders Act and the treaties that it implements have been successful in achieving their goals. For this reason, in their new form, they will continue to be a meaningful feature of international relations between Canada and many countries.

In closing, it should be pointed out that the progress made in the area of the transfer of offenders in terms of the number of offenders transferred and the treaties and the conventions implemented is considerable. Since 1978, approximately 1,000 Canadians have been brought home to Canada, and over 100 foreign offenders have been returned to their countries of citizenship. Although the numbers are not large, honourable senators, the individual hardships that have been alleviated are great. Bill C-15 will enable the government to continue enhancing its pursuit of humanitarian ideals.

Finally, honourable senators, let me say that there is clearly a need for Canada to realign its legislation to better reflect our humanitarian objectives which are, first, the return of Canadian nationals; second, international cooperation in matters of criminal justice; and third, public protection by the safe and gradual reintegration of offenders into society. Bill C-15 would do all of this by incorporating traditional international treaty principles, closing identified gaps and ensuring consistency with other legislative provisions. Bill C-15 would also contribute to these important objectives by including additional types of offenders who are now not covered and by increasing the number of jurisdictions with which Canada would enter into arrangements for the transfer of offenders.

Honourable senators, I urge your support of Bill C-15 and the establishment of the international transfer of offenders act. This is good, common sense legislation; it is humanitarian and it is forward looking. I commend it to all of you, and I ask you for your support of this bill.

Hon. Anne C. Cools: Would the honourable senator take a question or two?

Senator Christensen: I would be pleased to take a question. I do not guarantee that I can answer it, but I would be pleased to take it.

Senator Cools: That is not a problem. Questions can be answered now or later.

The Hon. the Speaker: Just to clarify, we are still on Senator Christensen's speech. Our rules provide for questions or comments, and Senator Christensen has agreed to take a question.

Senator Cools: This bill is interesting in that it introduces quite a collection of novelties into the law, and I hope that will be examined in committee. One of the novelties it introduces is the

concept of making an offender an equal partner or equal party with Her Majesty in this country and also with the heads of state and sovereigns of other countries with whom these agreements are made. That is problematic because when an offender is seeking a transfer, as an offender is prone to do, it is not the consent of that offender that is given; rather it is a request to both governments that that offender is submitting. The other government's response is a granting of a request. That is hardly consent as equal parties. There is something very wrong with that.

My question relates to a section in the honourable senator's speech in which she was speaking about young offenders or children, one or the other.

Senator Christensen: Both.

Senator Cools: I am curious about young offenders. Perhaps the honourable senator could enlighten us about the numbers of young people we are talking about. I am curious, for example, to know how many young offenders Canada has serving in foreign prisons or incarcerated abroad.

I wonder whether the provisions of this bill apply in the example I am about to give. There is a case where three members of a family living in Toronto were supposedly fighting with al-Qaeda, a father and two sons. The two sons are minors. The father is dead, one son is in Guantanamo, and the 14 year old — it is a sad thing — is paralyzed, but he was fighting. I am curious if the provisions of this bill would have applied to that 14 year old. Is this bill intended to cover such instances? If the honourable senator does not have the answer, I understand, because the case is quite new.

How many Canadian young offenders will be transferred in accordance with either the terms of the treaties or by the administrative provisions of this proposed act?

Senator Christensen: I thank the honourable senator. Just to make a comment on the first observation, which relates to the consent of the offender, the provision in the proposed legislation is to ensure that, when an application is made from either Canada to a foreign country or from a foreign country to Canada, the offender has in fact consented to being transferred. Prisoners will not be transferred without giving their consent, as would be happening in an extradition situation.

With respect to children, I do not have the number of children over the age of 12 who are now incarcerated in other countries or who have been transferred back. I only have group figures for a total number of persons who have been brought back and those who have been sent to other countries.

The change in this proposed legislation relative to children over the age of 12 is found in the probation section. The existing legislation does not provide the option for the return of a child who is over 12 and on probation in another country. That is being added, because that provision already exists for adults.

The proposed section for children under 12 is new. Again, I do not have figures, and I apologize for that. It allows for children under 12 to be brought back to Canada. Although they would not serve a sentence in an institution here, they would be integrated back into society under supervision.

Senator Cools: I am always amazed when I see provisions being created in statutes when in actual fact very few people or no people require the application of those provisions. I should like to know how many Canadian children under 12 years of age or even older are being detained abroad. Having said that, I understand that this is something that can be explored at a later time.

My second question had to do with the number of inmates.

Hon. Bill Rompkey (Deputy Leader of the Government): On a point of order, I would point out that we have a very short day today. Senator Kelleher is here today and ready to speak.

Senator Kelleher: The honourable senator makes it sound like I am never here.

Senator Rompkey: He is here today, as is his usual custom, and he is prepared, as is his usual custom, to speak. The bill will be referred to the Legal and Constitutional Affairs Committee, on which Senator Cools sits, and there will be adequate opportunity to explore the important points raised in this bill.

Would Senator Cools agree to hear Senator Kelleher now? I am not trying to stifle questions but to suggest that we address them in another forum.

• (1530)

Senator Cools: I did not think that we were short of time. I do not think Senator Kelleher will speak for too long. My questions are not that lengthy.

I appreciate that the bill will go to committee, but I must tell honourable senators that I do not believe that committee study replaces the kind of debate that should happen here. To my mind, with all due respect, Senator Rompkey has just occupied as much time saying that as I would have occupied in putting my questions. I wish to ask a question. Why bother to have any debate at all? What has this place become?

My second question is this: Does the chamber have some idea of the number of inmates — I am saying inmates, but they call them offenders — serving abroad and the number of foreign offenders serving in Canada, and some information about the relative rates of the transfers? In other words, is it possible that we have a situation where the foreign offenders are opting to stay in Canada and Canadian prisoners abroad would be opting to come back here? That would be saying something about our penitentiaries here. Could we get this information for the record?

Senator Christensen: Honourable senators, very briefly, as of the year 2002, we had 3,076 Canadians in foreign jails; of those, 2,712 were eligible to be transferred back to Canada. At the same time, we had 952 foreign nationals in our penitentiaries, of which 278 were eligible to be returned to their countries of origin.

[Senator Christensen]

Senator Cools: Therefore, the exchange process is largely a one-way process, is it not? In other words, Canadian offenders who are serving abroad want to serve in penitentiaries in Canada, and foreign offenders are opting to stay in Canada.

Senator Prud'homme: Foreigners like it here.

Senator Cools: It would appear so. Perhaps it is something we could look at. I am interested in your numbers. I know a fair amount about this subject matter, and it is important for this chamber to have this information and to discuss it and to debate it.

I would also like to say to Senator Christensen that I thank her very much. It has been a long time since this chamber or Parliament in general has done a serious study on penitentiaries, on remission or parole, or on any of those vast areas of study. Having said that, I would be happy to listen to — and I am eagerly awaiting to hear — every single word that Senator Kelleher will utter.

Some Hon. Senators: Hear, Hear!

Hon. James F. Kelleher: Honourable senators, it is nice to receive applause from both sides of the chamber before I even speak.

I want to thank Senator Cools for stepping aside with her questions and allowing me to rise to speak at second reading of Bill C-15.

We in this chamber are probably more aware than most Canadians that time is precious. This feeling must be particularly acute for our Liberal colleagues in these, the waning days of their government. Indeed, there is very little time left in this parliamentary session to deal with important issues facing the nation, so by all means, let us spend a portion of it dealing with legislation that cuts a better deal for convicted criminals — criminals that have seen the due process of law, and for their crimes are ensconced in prisons here in Canada and abroad.

As honourable senators know, Bill C-15 repeals and replaces the 1978 Transfer of Offenders Act. That act allows for implementation of treaties between Canada and other countries for the international transfer of offenders. The bill before us is intended to further the humanitarian purposes of this legislation, and of the treaties signed between Canada and foreign states. It adds Macao and Hong Kong to the number of states with which we will have such arrangements and allows for the transfer of a broader range of Canadians. Children will be included, along with those suffering from mental disorders.

It bears repeating, honourable senators, that the purpose of this legislation and of the transfer treaties is essentially humanitarian, as the government emphasizes in the background document accompanying this bill.

As my fellow senators are aware, I have long championed the introduction of Canadian criminals, especially corporate criminals, to the humanitarian environment of our prisons, but, of course, this begs the question: What do we consider to be a humane or inhumane environment when it comes to prison?

Judging by the recent news concerning our prisons, this is a very open question. For instance, if a Canadian languishing in a foreign jail cannot get takeout food delivered to his cell, would that be considered inhumane? Or perhaps it takes more than 30 minutes for delivery — is that inhumane? What if you do not get exactly what you ordered? Would that be reason enough to apply for a transfer to a Canadian jail, where the food delivery service, I hear, is excellent?

Of course, I am being somewhat facetious, but it underscores a serious issue. Prisons, some people might argue, are by their very nature inhumane environments. Other people might argue that simply locking up a person in a cage is, in itself, inhumane.

Honourable senators, let me assure you that I am not among those people — even though I am an orange-suit person, for anyone who is wondering. That does not mean there will not be serious debate about this issue, especially when the conditions in different prisons around the world and even within countries — not to mention within prisons themselves — vary.

However, there are more reasons to be concerned about this bill. I, for one, am concerned about the type of criminals we might be importing back to Canada. Is there any acknowledgement in this bill of the types of crimes that might have been committed and against whom? It is one thing to transfer back model prisoners who show promise of rehabilitation; it is quite another to return to Canada hardened criminals who themselves may contribute to the worsening of the prison environment here in this country.

This raises another issue. Who consents to the transfer? In the other place, my Conservative colleagues drew attention to subclause 8(1) of the bill, which identifies Canada, the foreign entity and the offender as those who must consent to a transfer before it takes place. Where, however, is the voice of the victim or their family? In some cases this may not be an issue, but in others such as murder, rape, assault and armed robbery, there are often, more than not, survivors — family members, friends and the victims themselves — people who have been traumatized by the crime. Under this legislation, they have no say in the transfer process. Without giving them a voice, will we be compounding their suffering? The answer in some cases, perhaps the majority of cases, is surely yes.

Remember, honourable senators, that Bill C-15 insists upon strict conformity within the Canadian criminal justice system. This means that the sentence settled upon where the crime is committed may no longer hold when the prisoner is transferred here. It is the Canadian sentencing guidelines that will be used, meaning that in cases where the foreign sentence exceeds the maximum sentence allowable in Canadian for the same crime, the lesser sentence will apply.

Humane indeed, but for whom? Imagine being the mother of a murder victim, having to stand idly by while the murderer of your son or daughter is transferred to a cushier prison where the sentence for the crime is reduced? It would be hard not to conclude that in some measure justice has been denied and the criminal has played the system.

• (1540)

You will forgive me, honourable senators, for suggesting that perhaps clause 8(1) needs to be revisited. I do not think it is too much to ask that victims or their survivors be given a voice in the transfer process.

I think, too, that we might want to take a look at the sentencing issue. It is important to be humane by all means, but at what cost? In casting aside the original sentence, are we not bending over backwards to accommodate, and I will say once again, convicted criminals? In trying to do so, the outcome may be the reverse of what is intended by this proposed legislation. Indeed, what we may be doing inadvertently is reducing the chances that a criminal will be transferred, given that the consent of the foreign entity is required. The consent will surely be less forthcoming if the foreign entity not only is being told that its prisons are not up to snuff but that its sentences are out of whack as well. This is certainly the message implied by this proposed legislation.

Honourable senators, that concludes my remarks on Bill C-15 at this time. Suffice to say that, in my opinion, this bill needs a little work. Thank you.

Some Hon. Senators: Hear, hear!

Senator Cools: Would the honourable senator take a question?

Senator Kelleher: It would be a pleasure.

Senator Cools: Honourable senators, Senator Kelleher was a former Solicitor General.

Senator Oliver: And diplomat.

Senator Cools: That, too. As such, Senator Kelleher certainly would have an extensive knowledge of our penitentiary system and of the transfers of offenders. Hence, given that a former Solicitor General is speaking for the other side, on this bill, I would love to put my question to him. My question is essentially a repeat of that which I had asked of Senator Christensen.

The word “consent” is used in this bill in respect of the offenders. In matters of this type, agreements between sovereign states are at issue. The sovereign states make the agreement, but it is the offender that is requesting of the sovereigns of both of those states permission to return to Canada to serve his or her sentence.

My reading of that clause, honourable senators, is that offenders are being elevated as equal parties in this so-called agreement. There is something very wrong with that because an offender who is incarcerated, quite frankly, under the power of Her Majesty and the Solicitor General, cannot be an equal party in those kinds of deals. I fear that these clauses will open up a plethora of creative lawsuits that we have not yet begun to consider.

I will be pleased to hear Senator Kelleher speak as a former Solicitor General, because the term "Solicitor General" has disappeared from Canadian popular usage. When Senator Kelleher was Solicitor General, he was called just that — the Solicitor General. I am not sure many senators know who is the current Solicitor General — because the language has disappeared.

Senator Oliver: Minister McLellan.

Senator Cools: But she is not referred to as the Solicitor General. What is she called?

Senator Kinsella: Minister.

Senator Cools: The Solicitor General is one of the three law officers of the Crown. It is a huge and different thing.

Has Senator Kelleher wrapped his mind around the dangers and troubles that would flow from this concept of altering what is really a request from an offender for a kind mercy from two sovereigns to be allowed to change countries to serve in prison at home to be equating that as a legal contract among three equal parties? I wonder if the honourable senator has given that any thought. If not, I appreciate that. Perhaps, he could think about it and give me some thoughts on it later.

It is put in terms of being humanitarian, but it seems to me that the drafters of Bill C-15 have not paid sufficient attention to the articulation of what they are intending to effect in those clauses.

Senator Kelleher: Honourable senators, I thank the honourable senator for her very perceptive question. She has raised an important issue, one that should be addressed when we discuss this bill in committee.

I am pleased to see Bill C-15 going to committee. I hope Senator Cools will attend those hearings and raise this issue. In the meantime, I will think about it.

Senator Cools: Honourable senators, I am pleased about that, because it is not often that we have a former Solicitor General speaking to a bill of this nature.

Another anomaly can be found in this bill, honourable senators. As we know, treaties are really agreements between two sovereigns — usually two, if it is bilateral. The anomaly I refer to, or unusual occurrence, in this bill is that it has to do with treaties with foreign entities.

I do not know if Senator Kelleher has a copy of the bill in front of him, but the definition section addresses the question of foreign entities. That causes me some concern. I think honourable senators should raise some alarms about that.

Does Senator Kelleher have any knowledge as to whether this bill is a precursor to power, in respect of transferring offenders between Canada and say the international criminal tribunals or the International Criminal Court? I definitely do intend to get some clarification at the committee as to what "foreign entities"

means. I know what other expressions mean, such as a foreign state, a foreign country and a foreign nation, but I am not sure we know what a foreign entity is.

I notice these oddities in the law, where it seems some of this is made up as they go along. Perhaps Senator Kelleher has not given this any thought, but if he has, could he share some of that with me?

Senator Kelleher: I wish to thank Senator Cools, once again, for another excellent question. I will be quite honest: I have not given that question any thought. I have been out of that ministry for a number of years. I am not able to follow it the way I once did. However, given the various tribunals that have arisen, particularly those sponsored by the UN, it is important to determine what interests a foreign country or a country like Canada has in decisions of that tribunal. I am sure this is not something to which we have given enough careful consideration.

Senator Cools: Honourable senators, I am grateful to Senator Kelleher for that, because there is much opinion forming now that we would not have thought was possible some years ago. For example, a group in England is trying to bring about the prosecution of President Bush. Many Europeans also wanted to see retired L.Gen. Roméo Dallaire prosecuted. I belong to that group of people who believe that international criminal courts and tribunals have not been truly debated in this chamber. Those tribunals are about selected prosecutions of selected persons in selected countries; and that causes me great distress. Bill C-15 will be referred to committee where I hope it will receive a fair hearing. Often, a bill referred to committee will be back before the house within 24 hours.

• (1550)

The issues in this bill are not trivial. Many involve overturning the principles of Canadian jurisprudence that the Canadian administration has relied on for many years. Some years ago when a certain bill was being debated in the house, I cited a passage related to the international criminal tribunal. There was talk of overcoming the burden of proof and altering many aspects of common law. That concerns me because our common law tradition is among the finest in the world. I have a problem with legal systems that attempt to overturn that tradition. Thank you, Senator Kelleher, former Solicitor General.

The Hon. the Speaker: Are honourable senators ready for the question?

Some Hon. Senators: Question!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Christensen, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

[Translation]

QUESTION OF PRIVILEGE

SPEAKER'S RULING

The Hon. the Speaker: Last Thursday, Senator Cools raised a question of privilege to challenge a Speaker's ruling of Wednesday, April 28 regarding the validity of proceedings on Bill C-250, to amend the Criminal Code (hate propaganda). The conclusion of that ruling was that there was no prima facie question of privilege. According to Senator Cools, there was an error in the ruling that is "egregious and fundamental and founds a new breach of privileges."

[English]

According to Senator Cools, the error is in the summary of her position stated in the first paragraph of the ruling on page 965 of *Debates of the Senate*:

It is the senator's position that the *Rules of Senate* do not provide any opportunity for any closure or guillotine motion to be moved by a private member or on a private member's bill.

Senator Cools contends that this summary misrepresents her view.

[Translation]

I have had a chance to review the arguments that were made April 27, as well as the ruling of the Speaker *pro tempore* April 28. I am now prepared to make my ruling.

[English]

Senator Cools is correct that the summary of her position in the ruling is not entirely accurate. In her arguments of April 27, the senator equated the guillotine with time allocation and the previous question with closure, and she recognized that private members can move the previous question. The summary did not accurately reflect her understanding. However, I believe that it is worthwhile to distinguish between the terms previous question and closure. As noted in *A Glossary of Parliamentary Procedure*,

Third Edition, closure is a "procedure forbidding further adjournment of debate on any motion or on any stage of a bill and requiring that the motion come to a vote at the end of the sitting in which it is invoked." However, the previous question is defined as "a debatable motion preventing any further amendment to the motion or bill before the House." They are related, but not identical, concepts.

When challenging the right of Senator Murray to have proposed his motion, the senator said, "...the Senate's rules 38 and 39 are crystal clear." I quote the senator in *Debates of the Senate*, page 934: "Outside of that, there is no power within any rule of the Senate for a private member to move a guillotine motion." This is a power, according to the senator, that can only be exercised by a minister following rules 38 and 39 on time allocation. The senator did not, however, challenge the right of a private member to move the previous question, though she did explain that both the motions of Senator Murray and Senator Joyal were an abuse of the house and a breach of senators' privileges. Senator Cools had also suggested that it was a responsibility of the Speaker as Chair to protect the Senate "...from motions that are unusual or irregular, particularly questions of closure and guillotine, which are exceptional procedures..."

The clarification that Senator Cools has brought to the attention of the Senate does nothing to undermine the reasoning of the decision or its result. If any senator wished to challenge the ruling, the correct procedure would have been to appeal the ruling immediately. Since there was no appeal of the Speaker's decision when it was made last Wednesday, April 28, it stands as a decision of the Senate itself. It is not appropriate to try to appeal the ruling indirectly through a question of privilege.

[Translation]

Rule 43 stipulates the criteria that must be met in raising a question of privilege. Among other criteria, it must be raised to "correct a grave and serious breach" of the privileges of either the Senate itself or any of its individual members. While there was indeed an error in the summary of Senator Cools' position, it does not in my opinion have any effect on the substance, logic or conclusion contained in the ruling of April 28.

[English]

Therefore, it is my ruling that there is no basis of a prima facie question of privilege.

The Senate adjourned until Thursday, May 6, 2004, at 1:30 p.m.

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37th PARLIAMENT

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OFFICIAL REPORT
(HANSARD)

Thursday, May 6, 2004

—

THE HONOURABLE DAN HAYS
SPEAKER



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(Daily index of proceedings appears at back of this issue).

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THE SENATE

Thursday, May 6, 2004

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

ROUTINE PROCEEDINGS

PUBLIC SERVICE COMMISSION

APPOINTMENT OF MARIA BARRADOS AS PRESIDENT
OF THE PUBLIC SERVICE COMMISSION—REPORT
OF NATIONAL FINANCE COMMITTEE PRESENTED

Hon. Lowell Murray, Chairman of the Standing Senate Committee on National Finance, presented the following report:

Thursday, May 6, 2004

The Standing Senate Committee on National Finance has the honour to present its

EIGHTH REPORT

Your Committee, in accordance with subsection 3(5) of the *Act respecting employment in the Public Service of Canada*, chapter P-33 of the Revised Statutes of Canada, 1985, that the Senate approve the appointment of Maria Barrados, of Ottawa, Ontario, as President of the Public Service Commission for a term of seven years, has, in obedience to the Order of Reference of Tuesday, April 27, 2004, heard from the Honourable Denis Coderre, P.C., M.P., President of the Queen's Privy Council for Canada, and from Ms. Maria Barrados, and recommends that the Senate approve her appointment as President of the Public Service Commission.

Respectfully submitted,

LOWELL MURRAY
Chairman

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

On motion of Senator Murray, report placed on Orders of the Day for consideration at the next sitting of the Senate.

CITIZENSHIP ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Marjory LeBreton, Deputy Chair of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Thursday, May 6, 2004

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

SIXTH REPORT

Your Committee, to which was referred Bill S-17, *An Act to amend the Citizenship Act*, has, in obedience to the Order of Reference of Thursday, April 1, 2004, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

MARJORY LEBRETON
Deputy Chair

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, with leave, later this day.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

On motion of Senator Kinsella, report placed on the Orders of the Day for consideration later this day.

[Translation]

ROYAL ASSENT

The Hon. the Speaker informed the Senate that the following communication had been received:

RIDEAU HALL

May 6, 2004

Mr. Speaker,

I have the honour to inform you that the Right Honourable Adrienne Clarkson, Governor General of Canada, signified royal assent by written declaration to the bills listed in the Schedule to this letter on the 6th day of May, 2004, at 10:00 a.m.

Yours sincerely,

Barbara Uteck
Secretary to the Governor General

The Honourable
The Speaker of the Senate
Ottawa

Bills Assented to Thursday, May 6, 2004

An Act to amend certain Acts of Canada, and to enact measures for implementing the Biological and Toxin Weapons Convention, in order to enhance public safety (*Bill C-7, Chapter 15, 2004*)

An Act to amend certain Acts (*Bill C-17, Chapter 16, 2004*)

An Act to give effect to the Westbank First Nation Self-Government Agreement (*Bill C-11, Chapter 17, 2004*)

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw to your attention the presence in the gallery of members of the Westbank First Nation. On behalf of all senators, I welcome you to the Senate of Canada.

• (1340)

[English]

BUDGET IMPLEMENTATION BILL, 2004

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-30, to implement certain provisions of the budget tabled in Parliament on March 23, 2004.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Rompkey, bill placed on the Orders of the Day for second reading Monday next.

CANADIAN NATO PARLIAMENTARY ASSOCIATION

JOINT MEETING OF DEFENCE AND
SECURITY, ECONOMICS AND SECURITY,
AND POLITICAL COMMITTEES—
FEBRUARY 15-19, 2004—REPORT TABLED

Hon. Jane Cordy: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian NATO Parliamentary Association, which represented Canada at the joint committee meetings of the NATO Parliamentary Assembly and at the annual consultation between the Economics and Security Committee and the OECD held in Brussels and Paris on February 15 to 19, 2004.

[Translation]

QUESTION PERIOD

FINANCE

FISCAL IMBALANCE

Hon. Jean-Claude Rivest: Honourable senators, my question is for the Leader of the Government in the Senate, and it concerns the fiscal imbalance. Everyone knows that in Canada the needs of

the provinces, particularly with regard to health and education, are growing exponentially, while public revenue is piling up in the coffers of the Canadian government. In Canada, as everyone except the current government recognizes, there is a fiscal imbalance.

For the enlightenment of the Leader of the Government in the Senate, I will quote the words of the Right Honourable Pierre Elliot Trudeau who, in the late 1950s, saw this emerging fiscal imbalance as one of the factors weakening Canadian federalism. Mr. Trudeau wrote in *Cité Libre*:

When a government has such an overabundance of revenue, the suspicion arises that such a government has taken more than its share of the fiscal capacity of the Canadian taxpayer.

Last week, the current Prime Minister of Canada wrote to the Speaker of the National Assembly of Quebec in response to a unanimous motion by all political parties in Quebec asking that the Government of Canada recognize the reality of the fiscal imbalance in Canada, echoing the concerns of the provincial premiers representing all regions of Canada.

In a rather curious answer, the Prime Minister of Canada indicated that if the provinces — Quebec in this case — had any additional needs — and God knows such needs exist — in the field of health, then they should simply increase provincial taxes.

My question is very simple: When will the current federal government recognize Canada's fiscal imbalance and when will it take the necessary steps to enable the provinces to assume their constitutional responsibilities and, in particular, to restore their health systems to a state where they can meet the pressing needs of Canadians?

[English]

Hon. Jack Austin (Leader of the Government): Honourable senators, Senator Rivest has posed a question of great interest. I can remember back some 25 years ago, when the fiscal imbalance seemed to be very much in favour of the provinces, the provinces were demanding that the federal government get its economic house in order. This is an argument that flows back and forth in a cycle. It has no science attached to it; no objective tests can be applied to it. It is the continuing dialogue that manages the federation.

Senator Rivest's question assumes there is a fiscal imbalance. That is actually the issue to be discussed. That assumption cannot be made. The federal government has a substantial debt remaining, in the nature of \$510 billion, whereas the total provincial debt is \$281 billion. With such numbers, one begins the argument by asking what is the definition of a fiscal imbalance?

[Translation]

Senator Rivest: Honourable senators, if there is no fiscal imbalance, how can the minister and his government accept that thousands of Canadians have to wait weeks, even months, to receive the medical treatment they need? We could discuss the historicity of taxation in the Canadian federation, but do the minister and his government realize that in addition to being used to reduce the debt, the Canadian government's current surplus could meet the urgent needs of thousands of sick Canadians who do not have access to medical services?

It is not that the provincial governments are not assuming or do not want to assume their responsibilities, but simply that they do not have the financial resources to productively invest the necessary funds for improving health services.

This is a tangible and urgent problem that all stakeholders across the country are reporting and to which the government remains insensitive. When will the government change its policy? What was the use in electing a new government leader if the current Prime Minister, Mr. Paul Martin, applies the same fiscal policy as former Prime Minister Jean Chrétien?

[English]

Senator Austin: The honourable senator is arguing from a premise that has yet to be demonstrated. The argument that there are fiscal imbalances is far from proven. Of course, as I have said, the federal-provincial debate will go on and on as long as Canada is here.

Let me point out some facts that may help the debate. In 2002-03, the provinces' total tax revenues were \$201 billion, including \$34 billion in cash transfers from the federal government. By comparison, federal fiscal revenues were \$178 billion before subtracting the cash transfers to the provinces. Therefore, the total provincial tax revenue is higher than the total federal tax revenue. The point is that the federal government does not see a fiscal imbalance when the provinces have higher revenues than the federal government. It is admittedly a subjective argument, as are all these arguments.

• (1350)

I point out that nearly all of the provinces have chosen to reduce their tax revenues in 2003-04. Provincial tax decreases added up to \$21 billion since 1995. Let us have the provinces explain why they are not providing the services that their public requires and demands when they can enjoy the pleasure of reducing their revenue base.

[Translation]

Senator Rivest: The minister's response is very clear. The election promise of the current Prime Minister, Mr. Paul Martin, to take care of health, is nothing more than window dressing.

The Leader of the Government in the Senate has just indicated to us that everything that needed to be done was done in the past and that the Canadian government, under Mr. Martin's leadership, will remain totally insensitive to Canadians' concerns about health.

It is extremely dangerous for a government taking that road on the eve of an election, to be so insensitive, unable and unwilling to meet the needs of the provinces.

The provinces are not concerned about federalism; they are concerned about the men, women and children who need health care. That is the reality.

[English]

Senator Austin: Honourable senators, there are people all over the country who need services. I am delighted to hear from Senator Rivest, representing his party, that there is recognition of the importance of government in supplying services to Canadians.

It is very reassuring because a number of Canadians were beginning to wonder about the position of the Conservative Party.

I also want to say that my honourable friend is following very closely the Bloc Québécois line. I wonder whether that has become the line of the Conservative Party. The Bloc Québécois accused the federal Liberal government of strangling Quebec by deliberately maintaining a fiscal imbalance. They propose an immediate \$2.3 billion increase to the Canada Health and Social Transfer for Quebec alone. They also want mechanisms for debt retirement where half of all the federal government surpluses, if any, would be transferred to the provinces.

Senator Lynch-Staunton: What is wrong with that?

Senator Austin: It is interesting to see the comparison and the accommodation of policy in this area between the Bloc Québécois, who are interested only in Quebec and have no investment in the stability or growth of the nation, and the Conservative Party adopting the same line. It is very close to the old Stephen Harper, is it not?

[Translation]

Senator Rivest: I would simply point out to the minister that, tomorrow, in Lac Saint-Jean, the premier of Quebec, Jean Charest, will join the Prime Minister of Canada to renew an announcement. As far as I know, Jean Charest is not a member of the Bloc Québécois. Anyway, political allegiances do not matter, since all provincial leaders — Jean Charest no less than others — want the federal government to be more sensitive and aware of the urgent needs in health care, to realize that it is time for action and not just words and that it needs to put its money where its mouth is. Many Canadians expect action from the government.

[English]

Senator Austin: It is interesting that a Quebec leader would aggressively represent the Quebec interest and Quebec interest only. I suppose that would be the case for any provincial leader, but the responsibility of a federal political party is for the nation as a whole.

Hon. Consiglio Di Nino: Honourable senators, I have been listening attentively to this exchange. Where would we be if the current government knew how to manage our citizens' money, instead of blowing it on the HRDC scandal; instead of wasting billions on the gun control registry; instead of wondering where \$161 million went from the RCMP; instead of being involved in the sponsorship scandal? If this government knew how to manage our money, would the exchange between my two honourable friends not be easier?

Senator Austin: Honourable senators, we have never had a better fiscal manager than the present Prime Minister. Canadians recognize his contribution to the economic stability of this country.

Senator Di Nino has a very short memory if he cannot remember what his political party, when it was the Progressive Conservative Party, did to the fiscal stability of this country. The Chrétien government inherited billions and billions of dollars in debt in 1993.

Senator Di Nino: This is great. I love a good debate. I think my friend the Leader of the Government in the Senate has one problem. It is called revisionist history.

If it were not for the previous Conservative government having the courage to introduce free trade and the GST, your government, my dear friend, would not be able to pay the bills.

Senator Austin: Honourable senators, no matter how much we argue, a debt-to-GDP ratio of 70 per cent is seen by the world economic community as a dangerous situation for any country. That is where we were in 1993.

Senator Di Nino: Most of that debt can be directed to the mismanagement of the previous Liberal government that left us with interest rates at 21 and 22 per cent. The country was essentially bankrupt until the Conservatives came to power.

Senator Austin: It is clear that the public will shortly be asked to pass its judgment.

INTERNATIONAL TRADE

UNITED STATES— BOVINE SPONGIFORM ENCEPHALOPATHY— OPENING OF BORDER TO BEEF EXPORTS

Hon. Donald H. Oliver: Honourable senators, my question is for the Leader of the Government in the Senate and concerns BSE.

On the heels of Paul Martin's visit with President Bush last week, news has come out that a Montana ranchers' group has won its fight to halt several types of Canadian beef imports, effectively reversing a U.S. government decision last month to open the border to an expanded list of Canadian meat, including ground beef and bone-in beef. Could the Leader of the Government explain what measures his government is taking in response to this re-imposition of a trade ban on this type of beef?

Hon. Jack Austin (Leader of the Government): Honourable senators, as Senator Oliver states, we have had reports of a decision taken by the Department of Agriculture in the United States with respect to the import of cuts on the bone and other exports from Canada that are not currently being permitted but which we expected, following May 7, would be permitted. Of course, the Government of Canada is making vigorous representations with respect to the decision and expects that the U.S. will base its decision, after review, on science.

Senator Oliver: Are those representations being made at the prime ministerial and presidential level?

Senator Austin: Honourable senators, there is an understanding between the Prime Minister and the President of the United States with respect to a renewed common market for beef.

• (1400)

As honourable senators know, the United States has a body of laws that allows various parts of the administration to make decisions, which are their own responsibility, but those decisions are, of course, reviewable at other levels. That is the process that is taking place.

Senator Oliver: Honourable senators, if one looks at the fine print of what was actually said between the Prime Minister of Canada and the President of the United States on the reopening of the border to Canadian beef, Mr. Bush said that it was merely a restating of what his administration had already said about this issue before the Prime Minister's visit. There seems to be a disconnect between the Prime Minister's rhetoric heralding his visit as a triumph for Canadian beef producers and the reality of the situation, where really not much has changed. As we saw with yesterday's American decision on ground beef and bone-in beef, things have really gotten worse for the farmer.

In light of this, my question to the Leader of the Government in the Senate is this: Could he explain what, if anything, the Prime Minister accomplished on the beef trade ban issue in his visit to Washington. After all, if the effect of Mr. Martin's visit was merely to find out what the American administration had already stated on the issue, then we must conclude that very little, if anything, was in fact accomplished.

Senator Austin: On the contrary, honourable senators, an understanding on a common policy between the President of the United States and the Prime Minister of Canada is a very important step forward.

Senator Oliver: What has that to do with the opening of the border to live cattle?

Senator Austin: Honourable senators, nothing happens in an instant in either country. As I have already explained to Senator Oliver, by statute, processes are required to be taken. There are opportunities for the public to make interventions. Those are reviewable. We must follow process. This is common with respect to the United States, and it is common with respect to Canada. Prime ministers and presidents are not absolute rulers.

HEALTH

APPOINTMENT OF CHIEF PUBLIC HEALTH OFFICER

Hon. Wilbert J. Keon: Honourable senators, I have a question for the Leader of the Government in the Senate.

Media reports indicate that the location for the national public health agency will finally be named next week. While this is moving forward, there has been some confusion in the last week surrounding the head of the agency, the chief public health officer. Public Health Minister Carolyn Bennett has said that the process to search for the chief public health officer has not yet begun, even though it was to have started two or three months ago. Minister Bennett had also stated that, regardless of the agency's location, the officer would be based in Ottawa; however, she was forced by the PMO to retract this statement when it raised questions over the officer's ability to remain independent from political interference.

Could the Leader of the Government in the Senate tell us when the federal government expects to appoint the chief public health officer?

Hon. Jack Austin (Leader of the Government): Honourable senators, I have no information about a specific deadline for that appointment, nor about a specific announcement with respect to the proposed Canadian public health agency.

Senator Keon: To the best of the minister's knowledge, will this officer be located in Ottawa, where I think the officer should be located?

Senator Austin: Honourable senators, I do not have that information because the decision has not as yet been taken. I would be very happy, as Leader of the Government in the Senate, to make a representation for Senator Keon, if that is his representation.

I do want to advise the chamber, not to the surprise of any here, that I have been an advocate for placing the chief public health officer and the Canadian public health agency in Vancouver.

Senator Keon: Honourable senators, I can understand that.

If I may be allowed a supplementary question, public health emergencies happen when we are not prepared for them, as we all well know. The World Health Organization announced yesterday the number of new diseases that leap from animals to humans is growing at a rate that scientists are ill-equipped to deal with. The WHO has made several recommendations, including encouraging greater research into surveillance data and non-traditional systems in an effort to predict these kinds of outbreaks.

I would ask the Leader of the Government in the Senate if he and his government are satisfied at this time — particularly with the political uncertainty that lies ahead of us. This is not anyone's fault, but we will be having some political uncertainty, and we could be into an extremely dangerous situation.

Could the Leader of the Government in the Senate tell me whether any discussion has taken place about some interim appointments or adjustments, to carry us through this transitional time?

Senator Austin: I thank the honourable senator for that question. As he is well aware, more than any of us here, Health Canada has a standing capacity to deal with the threats that the honourable senator has described. Having had the experience of SARS as a potential pandemic, there has been a substantial gearing up in many centres of Canada. We have also had public reports that have indicated where systemic problems lie, and all of this material is under active consideration.

There is, as the honourable senator indicated in questions quite recently, a high alert with respect to the present recurrence of SARS in China, with at least one death and a number of other cases reported there. There is a great watchfulness with respect to travellers.

Having said all of that, to partially answer the question, I do have to agree with the implied premise that, if we had a central agency, with its instant connections, transferring information amongst a series of centres of excellence or expertise, we would reach an even better stage of capacity. I am saying, in summary, that the existing system is one that certainly deserves the confidence of Canadians, and we are working very aggressively to improve it by creating the public health agency.

LEVEL OF PREPAREDNESS
TO RESPOND TO OUTBREAKS

Hon. Wilbert J. Keon: Honourable senators, as you know, I was a full member of the Ontario committee, which just turned its report in a short time ago. I am satisfied that Ontario, in the interim, is in fairly good shape with the new appointment of their chief public health officer, who is an outstanding woman and an outstanding individual. I have the greatest respect for the officers in Health Canada, having worked with them over the last 30 years. However, I think we all realized in the preparation of these reports that we have a serious problem in Canada. The problem will be corrected, I think, with our new public health agency and our new public health officer, but we are caught in a situation right now where there is high risk of a serious public health problem.

I am concerned that this matter is not getting the attention it deserves — given that it is not as high-profile an issue as others at this politically charged time. My concern is that I am not sure that we have the machinery in place to take care of ourselves if something really goes wrong. In that respect, I would ask the Leader of the Government in the Senate to raise my concerns in cabinet, with a view to perhaps making some interim arrangements.

Hon. Jack Austin (Leader of the Government): Honourable senators, this is a topic on which there is high activity in the government. I personally have spent and am spending considerable time on the issue. The advice that I have been given is that the system is capable of responding — and I am quite

aware of the Ontario-based report to which Senator Keon referred. There are linkages today that did not previously exist among the various areas of expertise in Canada. I doubt if an interim step is required because it is my hope and expectation that an announcement will be made before we could organize any interim step.

• (1410)

NATIONAL DEFENCE

PROCESS FOR PURCHASING STRYKER MOBILE GUN SYSTEM

Hon. J. Michael Forrestall: Honourable senators, can the Leader of the Government in the Senate tell the chamber what the process will be for the purchase of the Stryker Mobile Gun System?

Hon. Jack Austin (Leader of the Government): Honourable senators, I have an answer with respect to what the mobile gun system is, what it does, and why DND thinks it is a good system. However, to answer the question specifically, namely, the process for acquiring the system — in other words, when the bids will be available, who will be asked to bid and what deadline the Department of National Defence is setting for procurement — those are questions I shall have to pursue for Senator Forrestall.

Senator Forrestall: Honourable senators, perhaps it would have been easier had I said do not talk to me any more about non-partisanship during Question Period in the Senate of Canada. Having listened to the minister, Senator Rivest and Senator Di Nino, I thought Senator Rivest won that debate.

Let me put the question this way, honourable senators: Can the minister tell the chamber whether the purchase of the Stryker vehicles will be an open process or a directed-contract process? If it is to be a directed-contract process, to whom will it be directed? If that decision has not been taken, could the government leader indicate when it will be taken? For example, will the decision be taken just before, during or shortly after the election, or some time next fall?

Senator Austin: Honourable senators, I shall take the question as notice.

With respect to Senator Forrestall's preliminary statement, I do not concede that Senator Rivest won any argument, but I will concede that Senator Di Nino lost it for him if he did win it.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour to present three delayed answers to oral questions posed in the Senate. The first delayed answer is to a question posed by Senator Carney on April 20, 2004, regarding the Canada Revenue Agency, concerning redress to citizens given incorrect information. The second delayed answer is to a question posed by Senator Lynch-Staunton on April 28, 2004, regarding the process of selection respecting appointments to Crown corporations. The third delayed answer is to a question posed on March 30, 2004, by Senator Andreychuk regarding the United States airline passenger pre-screening system.

NATIONAL REVENUE

CANADA REVENUE AGENCY—REDRESS TO CITIZENS GIVEN INCORRECT INFORMATION

(Response to question raised by Hon. Pat Carney on April 20, 2004)

Income Tax Information

The Canada Revenue Agency (CRA) makes every effort to ensure its telephone agents are provided with the required training and reference material to accurately answer Canadians' enquiries.

The CRA uses an external firm to test the quality of its responses and this information is used to continuously improve its service offerings.

Redress Mechanisms for Canadians

Fairness legislation allows the CRA to exercise discretion and cancel and waive penalties and interest.

Canadians can also contact the Problem Resolution Program in their local Tax Services Office, which is designed to deal with issues that have not been resolved through normal procedures.

In addition, Canadians can have their income tax issues reviewed by the CRA's Appeals Branch whose mandate is to conduct a formal and impartial review of those returns.

TREASURY BOARD

APPOINTMENTS TO CROWN CORPORATIONS— PROCESS OF SELECTION

(Response to question raised by Hon. John Lynch-Staunton on April 28, 2004)

- The Government announced a new merit-based appointment process for top executives of Crown corporations on March 15th. The President of Treasury Board sent letters to Chairs of Crown corporations confirming that they are now required to follow this process in the future appointment of their chief executive officer (CEO), chairperson and board of directors unless their enabling statute for their organization provides otherwise.

- It remains to be determined which Crowns would be included in the parliamentary committee review. The Leader of the Government in the House of Commons and the Minister responsible for Democratic Reform, the Honourable Jacques Saada sent a letter on March 16th to the Chair of the House of Commons Standing Committee with a list of all Crown corporation appointments. The Chair will provide the Committee's recommendations to Minister Saada and the House of Commons as to which of these positions should be subject to prior parliamentary review in due course.

- At this time, each Crown corporation has been asked to provide their selection criteria for the CEO and chairperson based on the needs of the organization; names of the nominating committee; and the competency profile for the board of directors. Their selection criteria and completed board competency profiles would then be discussed with the responsible minister's office, the director of Appointments in the Prime Minister's Office and the Senior Personnel and Special Projects Secretariat in the Privy Council Office.

- Once the Crown has finalized its discussions with PMO and PCO, their selection criteria would be in place for the future appointments of their CEO and chairperson. In general, selection criteria would consist of the following elements: education, experience, knowledge, abilities and personal suitability required for the positions. Abilities could include characteristics such as corporate vision, leadership and the ability to communicate effectively with stakeholders. Personal suitability could include attributes such as ethical character and sound judgment.

- Timing of putting 'in place' specific selection criteria for each Crown corporation will depend on how quickly they respond. It is anticipated that all replies should be received soon. In the meanwhile, proposed criteria would be assessed by a checklist established by the PCO in consultation with the PMO, to ensure that all strategic elements are considered by each Crown corporation.

TRANSPORT

UNITED STATES— AIRLINES PASSENGER PRE-SCREENING SYSTEM

(Response to question raised by Hon. A. Raynell Andreychuk on March 30, 2004)

THE MINISTER OF TRANSPORT ADVISES, THAT:

The United States' proposed CAPPs II requirements for provision of information would apply equally to its citizens as well as other nationalities entering or flying within the United States. The information provided would be a condition of entrance into, or boarding a flight within, the U.S. and would include date of birth, full name, address and phone number.

The CAPPs II program would require that air carriers provide this information to the U.S. government (CAPPs II office). The Government of Canada is not being requested to provide data to CAPPs II.

Under current Canadian law, an airline flying from Canada into the United States can provide to U.S. authorities only that information which it already has in its possession and which is contained in the list of 34 data elements specified under the current Aeronautics Act as a result of Bill C-44. The same list of 34 data elements appears in the Schedule to the proposed Bill C-7. There have been no requests from US authorities for any changes to Canadian laws or practices.

For clarification on the European stance, the European Union is engaged in discussions on what information European companies could provide directly to the United States for the purposes of CAPPs II. They have already reached an agreement for the purposes of Customs and for Immigration. Furthermore, the European Union Council has announced a draft Directive on the obligation of air carriers to communicate passenger data. As proposed by the Spanish government in March 2003, airlines operating within the EU would be required to provide passenger data to governments in the EU country of arrival.

The European Parliament, which has no jurisdiction in these matters, does not wish to share data with the United States. Also, a parliamentary committee has rejected the draft Directive referenced above.

As you can see, the situation on passenger information is under development. CAPPs II, itself, is not yet underway.

To reiterate, the United States proposed CAPPs II requirements for information would apply equally to its citizens as well as other nationalities entering or flying within the United States.

VISITORS IN THE GALLERY

The Hon. the Speaker: I wish to draw the attention of honourable senators to the presence in the gallery of Mr. Mario Garcia Delgado, Minister Counselor and Deputy Chief of Mission of the Cuban embassy in Canada. Mr. Delgado will be leaving Ottawa to assume a post as Director of Protocol for the Ministry of Foreign Affairs. He is accompanied by his wife, Ms. Deborah Ojeda, Secretary and Consul at the embassy.

Welcome to the Senate of Canada.

Hon. Senators: Hear, hear!

BILL TO CHANGE NAMES OF CERTAIN ELECTORAL DISTRICTS

REPORT OF COMMITTEE

Leave having been given to revert to Presentation of Reports from Standing or Special Committees:

Hon. George J. Furey, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, May 6, 2004

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

EIGHTH REPORT

Your Committee, to which was referred Bill C-20, to change the names of certain electoral districts, has, in obedience to the Order of Reference of Tuesday, March 9,

2004, examined the said Bill and now reports the same without amendment but with observations, which are appended to this report.

Respectfully submitted,

GEORGE FUREY
Chair

OBSERVATIONS
to the Eighth Report of the Standing Senate Committee
on Legal and Constitutional Affairs

Bill C-20 changes the names of 38 electoral districts, all of which were established by the 2003 Representation Order under the *Electoral Boundaries Readjustment Act*. This is not the first time a bill to change riding names has come before us; nor is it the first time we have made substantial observations on such bills.

Since February 27, 1996, when the second session of the 35th Parliament commenced, there have been 15 bills to change the names of electoral districts, of which 6 have become law.

The *Electoral Boundaries Readjustment Act* establishes the independent process by which constituency boundaries, and their names, are established following each decennial census. A three-person commission in each province prepares a report, following which there can be public hearings and representations. Once the commission's reports on the new boundaries and names are completed, they are tabled in the House of Commons, where Members may file objections. The House Committee that studies the reports then reports back to the commissions, which make the final decisions.

Members of Parliament, however, often remain unsatisfied with the final decisions of the commissions and may introduce a bill to change the names yet again. Members also introduce such bills at times unrelated to a Representation Order. In June 2000, when studying a similar bill, Bill C-473, your Committee objected to changing boundary names in this fashion. Such a process was not as open and transparent as the one described above. We noted then that it was confusing and costly, and that there should be a degree of permanency to constituency names:

8. While there are many valid reasons for wanting to change constituency names, your Committee believes that the ad hoc and frequent nature of such changes must be discouraged. It is confusing and there are costs associated with it. There needs to be a degree of permanency to the names of the constituencies: they should not be changed whenever there is a newly elected Member or representation from part of a constituency. A clearly established procedure exists under the *Electoral Boundaries Readjustment Act*, which should be followed. This also has the advantage that the decision rests with the neutral three-person commission, and there is opportunity for public notice and input. ...

9. Your Committee understands that extraordinary situations can arise at other times that may require constituency name changes. Your Committee also believes that the process in such cases must be much clearer and more transparent. Your Committee received submissions that reinforced the need for public consultation and input, to respect the fact that residents of a constituency strongly identify with its name. There should be a requirement for some form of public notice in the constituency, and provision for public comments. Guidelines to this effect could be adapted from the procedures set out under the *Electoral Boundaries Readjustment Act*.

Those observations are as valid today as they were four years ago.

With respect to the costs associated with boundary name changes, on April 2, 2004, Mr Jean-Pierre Kingsley, Chief Electoral Officer, and Ms. Diane Davidson, Deputy Chief Electoral Officer and Chief Legal Counsel, testified before this Committee concerning Bill C-20. They informed your Committee that if the bill becomes law and an election is called after September 1, 2004 (the date the Act comes into force), the costs arising from the name changes would amount to some \$500,000. Even if the election is called before that time, there will be significant costs as a result of the bill. This is not to say that these costs are unacceptable; it is just to recognize that they exist.

Your Committee notes that on April 2, 2004 the House of Commons Standing Committee on Procedure and House Affairs presented its Sixteenth Report to the House. The report related to the electoral boundaries readjustment process and the experience of the Subcommittee established to deal with objections of Members of Parliament to the reports of the electoral boundaries commissions. The report also dealt with riding names, and echoed your Committee's reluctance to deal with bills to change the names. As the report noted:

45. As a final point, as the commissions themselves recognized, if a riding name remains unchanged despite an objection, a Member can always use the option of a private Member's bill to change the name of the riding. It seems pointless to us for House business to be needlessly taken up with name changes from the commissions. Changes after the fact also lead to additional costs and work for Elections Canada. Therefore, we would alter the commissions' power in the case of riding names: when the responsible parliamentary committee unanimously supports an objection on a name change, the recommendation of that committee should be binding on the commission.

Recommendation 9

The Committee recommends that:

Section 23 of the *Electoral Boundaries Readjustment Act* be changed so that in the case of an objection to a proposed electoral district name, and where there is a unanimous recommendation of the relevant committee

of the House that considers the objection, that the electoral boundaries commission shall follow the recommendation of the committee. This would simplify the business of the House of Commons and the Senate, which has already expressed dissatisfaction with private Members' bills to change riding names.

Your Committee finds this to be a sensible recommendation and supports the amendment to the Electoral Boundaries Readjustment Act proposed by the House of Commons committee.

Your Committee reiterates that there should be a revised process with the support of Guidelines provided by the Chief Electoral Officer to govern the changes of names at other times should extraordinary situations arise that may require constituency name changes.

The Hon. the Speaker: When shall this bill be read the third time?

On motion of Senator Rompkey, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

CANADA ELECTIONS ACT INCOME TAX ACT

BILL TO AMEND—REPORT OF COMMITTEE

Leave having been given to revert to Presentation of Reports from Standing or Special Committees:

Hon. George J. Furey, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, May 6, 2004

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

NINTH REPORT

Your Committee, to which was referred Bill C-3, to amend the Canada Elections Act and the Income Tax Act, has, in obedience to the Order of Reference of Thursday, April 22, 2004, examined the said bill and now reports the same without amendment.

Respectfully submitted,

GEORGE FUREY
Chair

The Hon. the Speaker: When shall this bill be read the third time?

On motion of Senator Mercer, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

THIRD WINTER SESSION OF THE PARLIAMENTARY ASSEMBLY OF THE ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE— FEBRUARY 19-20, 2004—REPORT TABLED

Leave having been given to revert to Reports from Inter-Parliamentary Delegations:

Hon. Jerahmiel S. Grafstein: Honourable senators, I have the honour to table in both official languages the report of the Canadian delegation of the Canada-Europe Parliamentary Association, OSCE, to the third winter session of the Parliamentary Assembly of the OSCE, the Organization for Security and Co-operation in Europe, in Vienna, Austria, February 19-20, 2004.

ORDERS OF THE DAY

CANADA NATIONAL PARKS ACT

BILL TO AMEND—SECOND READING— DEBATE ADJOURNED

Hon. Jack Austin moved second reading of Bill C-28, to amend the Canada National Parks Act.

He said: Honourable senators, I am pleased to present to the Senate Bill C-28, to amend the Canada National Parks Act. This bill has two objectives. The first is to ameliorate an error in a land description in legislation passed in the year 2000, which deprived the Keeseekoowenin Ojibway First Nation of a five-hectare strip of land to which they were entitled by agreement through a 1994 specific land claim settlement. For reasons I shall explain, the error can only be rectified by an amendment to the Canada National Parks Act.

The second objective is to correct an error in land planning of the establishment of the Pacific National Park Reserve on the west coast of Vancouver Island, in 1970. Adequate land space was not then reserved for the Tla-o-qui-aht First Nation, which is settled on the Esowista Reserve adjacent to the Pacific Rim National Park Reserve. It is proposed to remove 86.4 hectares of land from the Pacific Rim National Park Reserve and transfer that land to the Esowista Reserve, which will allow problems of living space, housing, health and infrastructure to be dealt with. Simply put, the purpose of this bill is to meet legal and moral obligations to those respective Aboriginal communities and in general improve trust and understanding with the Aboriginal community.

• (1420)

Now let me provide honourable senators with some relevant background. With respect to the Pacific Rim National Park Reserve, which was established in 1970, it completely surrounded the seven-hectare reserve of the Tla-o-qui-aht First Nation. At the time, Esowista was being changed from a seasonal fishing camp to a permanent residential community. The Government of Canada at that time recognized that a larger site would eventually be required to meet the needs of the Esowista community, and it committed itself to finding a long-term solution.

The land to be removed from the park — 86.4 hectares — will address acute overcrowding, allow infrastructure improvements to remedy sewage disposal and water quality concerns, and support the development of a model community that will exist in harmony with the national park reserve. This parcel of land represents less than 1 per cent of the park's total land base. Its removal from the park will have the least possible impact on Pacific Rim's ecological integrity and will accommodate the Tla-o-qui-aht First Nation community needs.

With respect to Riding Mountain National Park, which was created in 1929, it included Indian Reserve 61A of the Keeseekoowenin Ojibway First Nation. The First Nation, at that time, was relocated outside of the national park. A specific land claim settlement agreement, concluded in 1994 between Canada and the Keeseekoowenin Ojibway First Nation, re-established Reserve 61A. Most of the associated lands were removed from Riding Mountain in 2000 with the passage of the Canada National Parks Act. Due to an error in the preparation of the legal description for the land removal, a five-hectare strip of land was omitted and remained within the park.

There is only one legal way to remove lands from a national park, as honourable senators know, and that is by legislation. The amendments now proposed to the Canada National Parks Act will fully re-establish the Keeseekoowenin Ojibway First Nation Reserve 61A and rectify the error that occurred.

I would like to speak for a moment about environmental considerations. The removal of the 86.4 hectares of land from Pacific Rim will not unduly compromise the park's ecological integrity. The Tla-o-qui-aht First Nation has made a commitment to cooperate with Parks Canada to provide for the long-term protection of the natural and cultural resources of the parklands surrounding the Esowista Indian Reserve. Both the Tla-o-qui-aht First Nation and the Department of Indian Affairs and Northern Development have made commitments to develop and maintain the lands in ways that respect the ecological integrity of the park. In addition, a number of measures will be in place to ensure a sustainable community in harmony with the park. The development of the lands to be removed from Pacific Rim will be based on the Canada Mortgage and Housing Corporation's model community guidelines.

There will be an overall site development plan that Parks Canada will review and recommend for approval to the Department of Indian Affairs and Northern Development. In addition, each development project will be subject to assessment

under the Canadian Environmental Assessment Act. Finally, to provide for appropriate protection of adjacent parklands, a \$2.5 million mitigation fund will be provided to Parks Canada from the Department of Indian Affairs and Northern Development.

I should also mention that that department will not require any additional funding for the Esowista expansion. It is expected that a total of 160 housing units will be required over the next 25 years, of which 35 are required in the short term.

As for the five-hectare strip of land to be removed from Riding Mountain, it is a requirement, as I have said, of a 1994 specific land claim settlement agreement. Honourable senators will recall in the last session Bill C-6, which was presented here for the purpose of creating a statutory capacity for the present Order in Council Indian Claims Commission. This was, of course, a decision of the Indian Claims Commission. I want to reassure honourable senators that there are no environmental consequences associated with this amendment to the Canada National Parks Act.

With respect to public support, consultations have been undertaken around these initiatives and they indicate broad public support. For example, the following bodies have indicated their support for the proposed land withdrawal from Pacific Rim. Environmental non-government organizations include Green Peace, the Sierra Club, the Western Canada Wilderness Committee, the Friends of Clayoquot Sound, and the Canadian Parks and Wilderness Society, as well as provincial, regional and district governments, and the provincial level First Nation groups.

As a senator from British Columbia, I want to express my thanks to the Government of British Columbia for their support in this initiative to expand Esowista. Of course, the cooperation of the provincial Government of British Columbia is essential in ensuring that lands removed from Pacific Rim can be transferred to the Department of Indian Affairs and Northern Development for Indian reserve purposes. All of these parties consider Esowista to be a unique situation and are supportive of the need to keep the members of the community together, and to provide land from Pacific Rim for residential and related purposes.

I would like to turn briefly to the work being done in Canada's special heritage places, national parks and national historic sites, as it relates to the Aboriginal community. Parks Canada has over 170 different locations to manage in Canada. Many of these places contain evidence of the first peoples of Canada and are associated with events that have shaped Canada. Therefore, it is only fitting that Parks Canada created an Aboriginal Affairs Secretariat in 1999, coinciding with the statutory creation of the Parks Canada Agency.

That secretariat reports to a chief executive officer, who works closely with a network of staff in units across Canada. The broad objective of the secretariat is to facilitate the participation of Aboriginal people in Canada's national parks, national historic sites and national marine conservation areas. With a view to continuing to strengthen productive and mutually beneficial relationships with Aboriginal peoples, Parks Canada has developed five priority areas flowing from that objective, and I would like to give honourable senators some brief examples of how those priorities are being put into operation at the field level.

Many national parks have created a full-time staff position dedicated to liaison with Aboriginal communities. This gives the Aboriginal people a direct line to decision makers at the operating level of the parks. That staff advises the Aboriginal communities of any operational plans or decisions that may be taken with respect to the park. Special arrangements are sometimes made for the whole community, or specifically for the youth and elders, to engage in cultural gatherings in the park which gives them an opportunity to reconnect with their land and their stories.

• (1430)

Parks Canada Agency has also set a priority to increase the presentation and interpretation of Aboriginal heritage within national parks and at national historic sites.

Through a combination of oral traditions and archeological research, we are learning to appreciate the ways in which Aboriginal people lived on the land in a sustainable way.

As well, many parks invite Aboriginal people to demonstrate their traditional ways of living, of preparing food, and of celebrating a sacred bond with the land, all of which has in view the increase of understanding the contributions made by Aboriginal peoples to the Canadian nation.

A third priority is placed on encouraging economic partnerships between Aboriginal people and Parks Canada. This takes many forms. Local Aboriginal businesses may be given, and are often given, standing contracts to supply material and services to maintain trails or to monitor cultural resources. Aboriginal communities run businesses in national parks and sell handicrafts, art and traditional foods to park visitors.

In some parks, Aboriginal people who know the land intimately hold guiding and outfitting licences. Economic partnerships may also take the form of opportunities to practise and hone technical skills learned in the classroom. One example of interest to me is firefighting in Jasper National Park, along with archeology and techniques for collecting oral traditions.

Almost every park in the system has increased the number of Aboriginal people working there and increased the percentage of Aboriginal people who make up its staff. The representation of Aboriginal people within Parks Canada today is 8 per cent. Of the executive group, 10.3 per cent are of Aboriginal descent. In 2002-03, 12.1 per cent of people newly hired in Parks Canada were Aboriginal.

Finally, Parks Canada Agency is working toward increasing the number of people, places and events related to Aboriginal peoples' history that are commemorated as nationally significant, and that are members of the family of Canada-wide national historic sites. In the past five years, the Historic Sites and Monuments Board of Canada has identified 22 such aspects of history associated with Aboriginal people that are significant to Canada as a nation. This brings to 192 the total number of Aboriginal commemorations of national significance and more are contemplated.

Aboriginal communities own many of the most recent additions to the national historic sites register. To support Aboriginal

communities, to present these sites to the public, Parks Canada has an annual fund of \$200,000 and has assisted Aboriginal owners of sites to create multi-year management plans to operate, present and protect such sites.

With respect to Pacific Rim National Park Reserve, significant strides have been taken in recent years to promote Aboriginal initiatives and to involve Aboriginal people in the cooperative management of the national park reserve, and the results have been remarkable. The Pacific Rim National Park Reserve worked with the Ucluelet First Nation to develop the new Channel Trail inside the national park. Opened in 2003, this interpretive trail provides extensive on-site interpretation of regional First Nations culture, history and language.

In June 2004, the Ucluelet First Nation will again honour the opening of the trail by erecting the first totem pole to be carved and raised in the traditional territory of this First Nation in 104 years. The welcoming pole will greet Canadians and international visitors to the trail, and to Ucluelet First Nation, to a new channel to traditional territory. It will symbolize the long history and continuing presence of First Nations people in the region and in the national park in particular.

Honourable senators, I have given you an extensive background of the work of Parks Canada with the Aboriginal community to illustrate a series of activities that perhaps should be well-known. While these activities are ancillary to the purposes of this bill, which is purely a land transfer, I believe that honourable senators and Canadians would like to know of the ongoing policies of Parks Canada and its agreements with Aboriginal peoples, and of the value to Parks Canada as well as to the Aboriginal communities of these activities.

This bill enjoys very broad support. I hope that honourable senators will deal with it expeditiously.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, before moving the adjournment of the debate on this bill, I should like to ask the honourable senator sponsoring the bill in the chamber several questions for clarification.

First, am I correct in understanding that the piece of property that we are speaking of is five hectares in size?

Senator Austin: With respect to Riding Mountain National Park, the area, which is one of the two objectives of the bill, comprises five hectares that belong to that Aboriginal community and which, by error, were omitted from the last legislation in 2000.

Senator Kinsella: Could the honourable senator indicate whether that particular parcel of land was the subject of a negotiation with the First Nation community 10 or 11 years ago?

Senator Austin: Yes, a claim was brought against the Crown, which was presented to the Indian Claims Commission. The result of that process was an agreement that they had been improperly and illegally deprived of the five hectares when the Riding Mountain National Park was established in 1929.

Senator Kinsella: Is there a dollar estimate as to the value of that property?

Senator Austin: I could obtain such information. This is undeveloped land and I do not believe it has any significant commercial value.

Senator Kinsella: The second parcel is in the Pacific Rim National Park Reserve. How large a piece of property is this, and what is its value in real estate dollars? Does the honourable senator have that information?

Senator Austin: As I said in my address, the Pacific Rim National Park Reserve land proposed to be transferred to the First Nation is 86.4 hectares. This is undeveloped land within a reserve. By definition, it has no commercial value. There is no community or residential activity because, of course, it is in a park. The land is located adjacent to the Tofino municipal airstrip.

Senator Kinsella: Honourable senators, when we examine this short bill in committee, hopefully witnesses from the department will provide the committee members with maps so that we can see what is proposed on Canada Lands Surveys Records. That could only be done in committee.

Honourable senators, I move the adjournment of the debate. I will speak on Monday evening.

On motion of Senator Kinsella, debate adjourned.

[Translation]

PATENT ACT FOOD AND DRUGS ACT

BILL TO AMEND—SECOND READING—
DEBATE ADJOURNED

Hon. Eymard G. Corbin moved the second reading of Bill C-9, to amend the Patent Act and the Food and Drugs Act (The Jean Chrétien Pledge to Africa).

He said: Honourable senators, I have the privilege today to introduce in second reading the bill on the pledge by Canada and Jean Chrétien to Africa.

• (1440)

This is a truly historical document. It marks a significant step forward in the world's efforts to stop the decimation of the developing world by AIDS, malaria and other fatal diseases. It is based on hope and compassion, and a desire to help those who are the least well off. I believe it merits our support and in fact, would go so far as to say that it must have that support, as a moral imperative.

The basis for this bill goes back to a decision reached on August 30, 2003 by the World Trade Organization to review the Agreement on Trade-Related Aspects of Intellectual Property

Rights. That agreement defines the rules that must be followed by WTO members to protect such elements of intellectual property as patents, copyrights and trademarks. Although it tends to assign top priority to patent holders, it also includes provisions authorizing members to waive the effect of these rights when the public interest requires. In the case of emergency drugs, for instance, this can comprise awarding a license to produce patented drugs to generic drug companies who could produce them at a lower cost to the public.

Fortunately, such emergencies are rare in Canada, and this provision is therefore seldom used. Unfortunately, such is not the case in many developing countries. As we know full well, diseases like HIV/AIDS, tuberculosis and malaria are causing terrible devastation. Last year, nearly one-quarter of all deaths worldwide were attributable to these diseases. A number of these deaths could have been prevented through access to appropriate drugs and treatment. For example, in Africa, only some 5 per cent of those who need antiretroviral agents to combat HIV/AIDS get any. The same is true of other critical drugs.

That is one area where the Agreement on Trade-Related Aspects of Intellectual Property Rights is causing a problem. While these provisions allow member countries to face situations of national emergency, they do not allow them to react similarly to emergencies outside their countries.

The decision made on August 30, 2003, was to correct this situation by waiving various prohibitions and allowing, under certain conditions, the export of authorized copies of patented drugs to WTO countries that do not have the capacity to manufacture their own. Despite all the fanfare around this decision, there was no obligation on any country to take action in this respect. There was no specific requirement.

Under the leadership of former Prime Minister Jean Chrétien and his successor, the current Prime Minister, Canada was not content with a wait and see approach. As Prime Minister Martin indicated, the government took action because it was the right thing to do, ethically.

We can be proud of the fact that Canada was the first to answer this call for help on the international scene. This bill has been praised as an example for the world to follow, and the eyes of the world are focussed on Canada. This bill innovates and clearly shows what the government, the business sector and the volunteer sector can achieve together, when they set aside profit considerations to focus on humaneness, compassion and alleviating the suffering of others.

As you can imagine, the objectives of the bill were unanimously approved; everyone made a contribution. However, some compromises had to be made to deal with logistical details. On the one hand, we have our major humanitarian objectives. We want to facilitate access to critical pharmaceutical products. On the other hand, we must preserve the integrity of our intellectual property regime and continue to respect our international obligations in this regard. I think that Bill C-9 allows the government to strike a practical balance.

[English]

The proposed amendments to the Patent Act and to the Food and Drugs Act were first tabled in November 2003 as Bill C-56. This legislation had passed through second reading in the House of Commons when Parliament was prorogued in November of last year. The bill was subsequently identified by the Prime Minister as a key legislative priority and was reinstated as Bill C-9 on February 12, 2004.

From then on, the House of Commons Standing Committee on Industry, Science and Technology reviewed the legislation and, in doing so, heard from dozens of stakeholders, including representatives of the generic and brand name pharmaceutical manufacturers, non-governmental organizations and medical practitioners.

Over this period, stakeholders presented numerous suggestions on how to improve the legislation. Their input was reflected in the government amendments tabled in the standing committee on April 20, 2004.

These amendments reflect the balance that is necessary between Canada's humanitarian objectives of facilitating the flow of life-saving pharmaceutical products to developing countries, while maintaining the integrity of its intellectual property regime and ensuring that its international obligations in this area are respected. They also improved the bill significantly and represent the spirit of compromise that many of the stakeholders deployed throughout this process. The role of Parliament was also enhanced through these amendments.

However, reading the bill in detail, I did notice that, once again, the Senate was left out of the review process. I brought this to the attention of ministers and officials. I have been told that this was, indeed, an error and that it certainly was not the intention of the House of Commons to leave the Senate out of the review process outlined in proposed section 21.18 of the bill. I have received commitments to the effect that — even though, for what are obvious reasons to most of us, it may not be possible to amend the bill at this stage — there will, indeed, be a commitment made by a minister at the committee stage to correct this error by way of legislation at the next earliest opportunity so that the rights of the Senate are maintained in the review of legislation and matters that flow from it.

• (1450)

Let me, for a moment, draw your attention to some of the highlights of the amendments that have been made to the original bill. The requirement that patent holders be given a right of first refusal on supply opportunities has been eliminated. Generic pharmaceutical manufacturers will continue to be required to seek a voluntary licence from the relevant patentees prior to making an application for compulsory licence. They will not, however, be required to notify the patentee prior to signing a contract with an eligible importing country.

The current bill utilizes a pre-approved list of drugs that the World Health Organization has recognized as being essential to the health needs of citizens around the world. The amendments

that were made add a number of products to this list that, for technical reasons, were previously excluded. The government is also planning to include five additional products that are not on the WHO list, but that are patented anti-retroviral products approved for sale in Canada. Two of these are fixed-dose combination products. Do not ask me to explain, please. I will leave that to Dr. Keon and Dr. Morin, who I believe will want to respond.

The bill expands the number of countries that may be eligible under the regime. Safeguards will be put in place to ensure that non-WTO member countries that use the system to import pharmaceutical products act in good faith in meeting their public health needs as mandated by the WTO decision of August 30 of last year.

Under the legislation, the royalty rate is determined in a manner consistent with Canada's international trade obligations and the humanitarian non-commercial nature of this scheme, determined by means of a regulatory formula based on the ranking system of the United Nations Human Development Index for eligible importing countries. You will find the list of those countries in an annex to the bill. Importantly, for the majority of eligible importing countries, this formula will result in a royalty that is lower than the previous proposal of 2 per cent.

The Government of Canada has always recognized the critical role that NGOs play in providing health services throughout the developing world. In response to their concerns, the government has clarified the language in the bill so that a licensed product may be sold to "the entity or person" purchasing on behalf of an eligible importing country. At the same time, it is recognized that a country's government will need to be involved in this process, as a state has the ultimate responsibility for coordinating the provision of health services within its borders.

A new provision was also added to the legislation to ensure that the regime is used in good faith by participating companies in order to respond to public health problems, in accordance with the WTO general council chairperson's statement accompanying the August 30, 2003 decision. This provision will afford patentees the right to contest an authorized compulsory licence, if they can establish that the product is being sold above an established price threshold.

[Translation]

Therefore, honourable senators, I believe that Bill C-9 allows the government to strike a practical balance.

The bill includes a number of schedules that list various pharmaceutical products and the countries to which they apply. Should one of these countries feel that it needs one of these products to face a public health emergency, its government or an official may contact a Canadian manufacturer of generic drugs to negotiate a supply arrangement. These schedules are very inclusive and they can be quickly amended in case of an urgent need. The government intends to set up an expert advisory committee that will make recommendations on the drugs that should be added to the list and on the appropriate time to do so.

[Senator Corbin]

Under the terms of the bill, generic drug manufacturers can enter into supply agreements with foreign governments or their representatives, at any time. The only obligation on the generic drug company is that before applying to the Canadian Intellectual Property Office for an export licence, it must first approach the brand name company holding the patents for that product to see whether the latter is willing to accord a voluntary licence on reasonable terms and conditions.

If the patent holder is unwilling to do so, the generic company is free to proceed with its application to the CIPO for a licence and, assuming the requisite health, safety and administrative conditions are met, a licence will be issued and the product can be exported.

As I was saying, the government believes it has found the right balance between the rights and the interests of the various stakeholders. I should also add that there are other provisions in the bill, for example, to guarantee respect for its humanitarian aspect. After all, its goal is not to help companies make a profit, but rather to save lives.

For example, after the review by the House of Commons Standing Committee on Industry, Science and Technology, a "good faith" provision was added whereby patent holders may apply to the Federal Court to block a licence, if they believe that the reasons for the application are not humanitarian, but commercial.

Some stakeholders have said that this provision could lead to abuse or slow down drug delivery by bogging things down in endless legal formalities. According to the government, that will not be the case. First and foremost, the provision only comes into play if the licence holder charges a price that casts obvious doubts on the humanitarian intention of his request. The bill sets the maximum price for generic drugs at 25 per cent of the average cost of the corresponding patented drug in Canada or at the direct supply cost plus 15 per cent. In my opinion — and according to experts — this is very reasonable and it is based on international precedents.

I want to point out that even if the provision is successfully invoked and the court deems the licence application to be commercial in nature, there is great flexibility with respect to the type of corrective measures that could be required. In other words, the courts will not automatically revoke contracts and ultimately stop the delivery of drugs. This would be inconsistent with the spirit of what we are trying to accomplish with this bill. That is only one of the many guarantees included in the legislative enactment to ensure that its humanitarian nature is respected.

It is worthy of mention that the legislator has incorporated into Bill C-9 a number of administrative requirements to guarantee that the drugs will not be steered into some other market or a country other than the one intended. The reason for this is to protect our patents but also, and more important, to prevent unscrupulous people from using these drugs for personal gain.

• (1500)

Honourable senators, these are the main points of the bill. What it proposes is good. It would of course have been impossible to draft such a bill without the good will, the skill and the commitment of a broad range of contributors, and I must include in that list all of the political parties here in the Parliament of Canada.

From the very beginning, the drug manufacturers and the patented and generic drug makers have strongly championed this project. As well, NGOs such as Doctors without Borders and OXFAM have made an appreciable contribution to ensuring that what is proposed in theory will work properly in practice. Thanks to their contributions, the bill has made great progress in recent months. I applaud their efforts, as well as those of the dedicated staff in the various government departments and agencies. What they have managed to accomplish — in a relatively short time — is truly impressive.

Honourable senators, I urge you to support this initiative. All the political parties represented in the other place have supported Bill C-9, which has earned Canada praise from the international community. It even earned us the approval of activists and well-known public figures such as the rock star Bono, who praised the Prime Minister and Canada's leadership on this and other development issues.

This bill needs to be passed urgently. The sooner the legislation is enacted, the sooner contracts can be negotiated and the drugs exported.

Ethically and from the point of view of our international obligations, I personally and sincerely believe — to borrow the words of Marc Fumaroli of l'Académie française — that our legislative ambition with respect to this bill is inseparably linked to the compassion we must have for the misfortune of others.

[English]

Hon. Wilbert J. Keon: Would the honourable senator take a question?

Senator Corbin: I would be pleased if it is not too technical.

Senator Keon: It will not be technical.

I will be speaking later to the details of the legislation, but from the very beginning the one thing that has concerned me about this legislation is diversion. I think diversion is here, whether we like it or not.

Senator Corbin: Could the honourable senator explain what is meant by "diversion"?

Senator Keon: I mean that drugs are being manufactured in the Third World and in underdeveloped countries and then marketed in the developed Western world. There is no question that is occurring with performance-enhancing drugs, regardless of the kind of performance, athletic or otherwise.

Senator Corbin is a very experienced parliamentarian. He has looked at this bill carefully, but I do not see how this phenomenon can be avoided. We are supposed to have generic drugs manufactured in Canada. Then there will be a connection between the NGOs and the target countries; they will sell the drugs. However, the reality is much like the Chinese market for medical devices. They buy one, take it apart and build another one like it for one tenth of the price.

It is so easy, given modern scientific technology, to take a compound, roll it out on a chip, see what it is and just make another compound. That technology is available all over the world.

How will we deal with this problem? The reason I am asking Senator Corbin is that I do not know how to address the issue when I come to make my remarks. I am asking the honourable senator to respond first.

Senator Corbin: Honourable senators, my first instinct is to suggest that this bill does not relate to performance drugs or that sort of product. That is not what this bill is all about. Those drugs are obviously excluded. Some NGOs suggested in committee hearings in the other place that all drugs, anything called drugs, should be on this list. Obviously, that is not a reasonable expectation.

With respect to the honourable senator's well-founded concern, which I take seriously, the only place where one can deal with it is at the WTO and the World Health Organization conjointly, with all countries cooperating in a positive way.

Senator Keon mentioned China. China wants to be part of the WTO. It seems, then, that it is incumbent upon China, henceforth, to respect WTO trade rules. If China does not respect those rules, we will do as we have done in other instances — rule against them and post penalties or what have you. That is an excessively long and painful process. It does not immediately address the concern here, and I respect that fact.

I am sure the Government of Canada takes the honourable senator's concern seriously and would not hesitate to address that matter in international fora. That is the most I can tell him at this stage, and I invite the senator to elaborate when he rebuts.

Hon. David Tkachuk: Honourable senators, I have questions to clarify a number of things. I understand that this bill was studied by the House of Commons Standing Committee on Industry, Science and Technology. Can Senator Corbin verify that? Can he tell us which responsible minister introduced this bill?

Senator Corbin: Technically, five ministers are involved in the bill at this stage, in terms of the new cabinet restructuring. There is a lead minister. This bill contains amendments that add to the Patent Act and add to the Food and Drugs Act. The Minister of Industry is involved, as is the Minister of Health. Some ministers of state are involved as well, in view of their particular missions, such as CIDA. The Minister of Foreign Affairs, of course, is involved in respect of the overall political thrust of the humanitarian effort here.

We had hoped that the Minister of Foreign Affairs would come to defend this bill in committee, but I am told, at this stage, that the minister will be unavoidably absent on important business in Europe. The Minister of Industry, Madame Robillard, will appear before the committee with her officials, who have been really at the heart of this bill. They have come forward with amendments that have met the majority of the expectations of the parties involved in this process, including the NGOs.

Senator Tkachuk: In case there is a new tradition under the efficiency aspects of the new Martin government, this bill was introduced not by committee but by the Minister of Industry, Trade and Commerce; is that not correct?

• (1510)

Senator Corbin: Yes.

Senator Tkachuk: That is very good. Thank you.

I have one more question. I noticed that the bill is called "An Act to amend the Patent Act and the Food and Drugs Act (The Jean Chrétien Pledge to Africa)." I do not know what the historical implications will be. I do not know how many bills have been named after former Prime Ministers.

Senator Cools: None.

Senator Tkachuk: We are embarking on a new and groundbreaking enterprise. I do not think it would be possible for me to convince Senator Corbin that we should name it after a former Conservative Prime Minister. Mr. Pearson, who had a stellar record, won the Nobel Peace Prize for international affairs. Would the government be favourable to amending the bill to call it, "The Pearson Pledge" or, perhaps, "The Canadian People's Pledge to Africa"?

Senator Corbin: If the honourable senator introduced a bill that emphasized the great contribution that the former the Right Honourable Prime Minister Brian Mulroney made to the liberation of the South African peoples, I would be more than delighted to support it.

Senator Tkachuk: Thank you for that. To follow up, is this the first bill that is named after a former prime minister, or have there been others? Was there a particular reason for this?

Senator Corbin: This is one of Jean Chrétien's crowning achievements at the level of international humanitarian aid. This is Jean Chrétien's pledge, and Canada's bill. It is a bill from all of us.

I take the bill as it is. I, personally, do not find anything out of order with it. I know for a fact that, when Jean Chrétien was the leader of this government, he pushed hard on the international scene for this program. I think we ought to give him credit for it.

Senator Tkachuk: Honourable senators, from a legislative point of view, the bill amends the Patent Act and the Food and Drugs Act. It concerns itself with those two acts. When we are considering what committee this bill is to be examined by, that can be taken into consideration. Will it affect any other act of Parliament?

Senator Corbin: Could you repeat the last part of the question?

Senator Tkachuk: I want to be sure that no bills other than the Patent Act and Food and Drugs Act will be amended by this bill. Is it just those two?

Senator Corbin: Yes.

Hon. Herbert O. Sparrow: When the honourable senator made his remarks, he referred to the Senate being left out of the review process. Would he tell me to what section he was referring?

Senator Corbin: I was referring to the proposed section 21.18(2), on page 18. If the honourable senator wishes, I can give some background.

Senator Sparrow: Thank you. Senator Corbin mentioned that the Senate should be referred to in that section and that the minister and the bureaucrats agreed that it should have been. It was omitted by error. How many times have we, in this chamber, fought over this very issue? The Senate is being excluded. The honourable senator said that the minister promised that the change would be made later. He also mentioned that five ministers are involved. Which minister made the commitment that it would be changed? I understand that the bureaucrats made the same statement. Would Senator Corbin tell me under what authority they would have made that statement?

Senator Corbin: Honourable senators, the error occurred. I called it an error. Can we call it a bone fide omission? It was an oversight. The proposed subsections 21.18(1) and (2) were an amendment presented by the Conservative Party in the House of Commons. I am not playing partisan politics; I am giving you the facts. The Conservative members of the committee came forward with this amendment, and the result was an oversight. No one picked it up — not the minister, not the officials, and no one in the other parties. As I was going through the bill and preparing myself for this debate, I picked it up, as I did with a previous bill that I sponsored in the Senate. This is probably the seventh or eighth occurrence of the Senate being left out of a review process or a reporting process.

I brought it to the attention of my leader in the Senate, who told me to speak to Madame Robillard. Madame Robillard had someone in her office call me to explain the circumstances of this omission. They regret it tremendously. They apologized for it. However, it was not their amendment. It came from somewhere else. I did receive a commitment. That is what we are all about. Our job is to pick up faults and parts and pieces that do not fit together. That is why the Senate exists.

The honourable senator wanted to know who will fix this and when. Time is of the essence with respect to adopting this bill. If we make an amendment to this bill, it must go back to the

Commons. I hope, and I say that respectfully, we will be able to adopt the bill without amendment sometime next week. The following week, the House of Commons will not be sitting. As to what will happen after that, the honourable senator's guess is just as good as mine. If we do not move the bill forward, it could be delayed for some months. Who will suffer as a consequence? Certainly not us, and not the House of Commons, but the people in developing countries who need the drugs.

Hon. Senators: Hear, hear!

Senator Sparrow: Thank you very much for that applause.

I heard Senator Corbin say that the minister and the bureaucrats said that they would make the necessary changes. Now he is saying that he did not even talk to the minister, that he talked to some bureaucrat who said that the minister would change it. There is a big difference in those two statements.

How many times have Senate committees and this chamber heard promises by ministers that they will make changes if there is something wrong? We are not talking about the value of the bill; we are talking about the actions of the Parliament and the government in excluding the Senate. The honourable senator can make any excuse he wants. Whether it was a Tory amendment or whatever, it is in this bill. Now that we are facing an election, who knows that after the next election the same ministers, any one of them, will be in the same position? The Minister of Health was mentioned, but Senator Corbin did not talk to the minister, he talked to some bureaucrat, who said that the change would be made. We have no indication of that. It may not even be feasible that, following the election of a new government, the same minister will hold that portfolio. If that minister is not reappointed, they will say, as has happened so many times before, "I am not the minister anymore; that is not my problem any more. A new minister has the job."

• (1520)

Can the honourable senator confirm that it was the minister he talked to? To whom did he speak?

Senator Corbin: Yes, I talked to Minister Robillard. I brought this matter to Minister Robillard's attention, and she said she would get back to me herself or through someone in her office. They called and apologized. They said it was an honest error and would be looked after. I was given that assurance.

This matter ought to be properly dealt with at the committee stage, if I may respectfully suggest, and I am sure we will hear from the minister at that point.

I deplore this situation just as much as Senator Sparrow does.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, perhaps Honourable Senator Corbin could help me understand proposed section 21.01, on page 1 of the bill, which states that the purposes of proposed sections 21.02 to 21.17 are to give effect to Canada's and to Jean Chrétien's pledge to Africa. Is there a distinction between the pledge of Canada, as

given by the Prime Minister of Canada, and the pledge of Canada and a pledge by Jean Chrétien? I laud the principle of this bill and will be supporting it, but I am concerned that we make a disjunction between Canada, which is typically represented by the head of the Government of Canada — the Prime Minister — and inserting into the bill the name of an individual Canadian. Is it the pledge of Jean Chrétien the individual as well as the pledge of the Prime Minister of Canada? It is spoiling, in my opinion, a perfectly good piece of work by the Government of Canada.

Senator Corbin: Honourable senators, this pledge to African leaders was given at the Kananaskis G8 meeting; was it not? That is where Jean Chrétien's pledge comes into play.

The honourable senator catches me by surprise when he asks me to respond. I have not focused on this aspect of the bill. I take the title at face value, but he will agree with me that a title like "An Act to amend the Patent Act and the Food and Drugs Act" is not very sexy. Maybe I should withdraw those words.

I am trying only to be open and candid. If the honourable senator goes to Fredericton and my hometown of Grand Falls and tells the people there that we had an exchange on an act to amend the Patent Act and Food and Drugs Act, what will be the reaction? However, if he tells them about the Jean Chrétien pledge to Africa, that may turn on a few lights.

Senator Kinsella: I am more concerned that after the people of Grand Falls, New Brunswick, read the Hansard of this debate, they will hear about a sexy leader and drug enhancing.

Honourable senators, I do not want to delay the debate, but how many bills can we point to that have this kind of title? I cannot find any. My concern is the part of the title that is in brackets.

I will not raise a point of order, but honourable senators should read what Erskine May says about long titles, at page 462, which is very clear.

With respect to the proposed section of the bill I mentioned earlier, I would hope that my colleague would agree with me that the committee should take a peek at its wording.

The Hon. the Speaker: Honourable senators, I have a number of questioners rising, but I regret to advise that Senator Corbin's 45 minutes have expired.

Hon. Anne C. Cools: Maybe I should raise a point of order. He should ask for more time. This is a complicated debate.

The Hon. the Speaker: I will see Senator Cools on a point of order.

Senator Cools: It is not really a point of order. We can raise these same questions on a point of order.

I appeal to Senator Corbin to ask for leave to continue this debate. I am sure it would be granted so that some of these questions of deep constitutional importance can be clarified. I, for

example, want to put particular questions to Senator Corbin because he is very informed on this matter.

Do you know, honourable senators, if we do not want to debate, then close the place down.

The Hon. the Speaker: Senator Cools, I understand your point. I have on my list, in addition to yourself, Senator Fraser, Senator Tkachuk and, I believe, Senator Sparrow, all who wish to ask more questions.

In any event, Senator Corbin's 45 minutes have expired. The rules are clear. He has not asked for additional time. We have other speakers, and I will go to them now.

Before I do, Senator Corbin spoke on the government side, and Senator Morin wishes to be recognized. I believe that the principal speaker for the opposition side will be Senator Keon. I take it we agree that the 45-minute time should be limited to the first speaker, namely, Senator Keon. Is that agreed?

Hon. Senators: Agreed.

[Translation]

Hon. Yves Morin: Honourable senators, I would like to briefly comment on Bill C-9 and on the excellent speech made by the Honourable Senator Corbin.

The health problems that exist in developing countries are unprecedented. The legislation now before us will certainly provide a means of dealing with this calamity.

[English]

I would like, however, to raise one specific issue that has not, to my knowledge, been addressed thus far in the debate surrounding this important legislation. We all understand that this bill will render essential drugs available to developing countries at a fraction of the cost we pay for them in Canada. My question is, therefore, where does the money come from to account for this difference in cost?

We are talking about large sums of money. The cost to treat a case of AIDS in Canada is around \$20,000. Under the new system, the cost to developing countries would be around \$200. Who will pay the difference? It is not the government. The government has simply legislated the process without allocating any funding.

In fact, the cost of this generous legislation will be entirely borne by the research-based pharmaceutical industry. The price of an innovative drug is not that of the ingredients but that of the research that led to its discovery and approval, which costs more than \$1 billion, a sum that must be recovered in only 10 to 15 years before the patent protection expires.

What we are doing today is very unusual. For the first time, we are ordering a private company to donate its products, admittedly to a most worthwhile cause and health emergency.

• (1530)

Nonetheless, when the government commits other Canadian goods or services to developing countries, for instance, through CIDA, it pays for them. Bill C-9, however, is different. Its confiscation of a Canadian product is a precedent in Canada; and we are the first country in the world to take this step.

The decision to take such a step is a measure of the importance we attach to combatting AIDS throughout the world and the bill has received widespread support to achieve that goal. We have, though, gone one step further. By removing the right of first refusal that was in the first version of the bill, we are preventing the research-based pharmaceutical companies from participating fully in the provision of medicines.

First, that does a disservice to the industry's long history of humanitarian involvement in developing countries, not only in the field of pharmaceutical delivery, but also in setting up adequate medical facilities and ensuring that proper diagnoses and adequate monitoring are carried out.

For example, six companies are participating with the World Health Organization and UNICEF in efforts to improve access to anti-retroviral medicines in 84 countries. In addition, Merck & Co., in cooperation with the Bill and Melinda Gates Foundation, has taken the responsibility of developing a comprehensive plan for the treatment of AIDS in Botswana. There are many more examples of this type of comprehensive action by the innovative pharmaceutical industry.

As a matter of fact, an article in the last issue of *Health Affairs*, which is the most prestigious journal in the field, has shown that essential patented drugs are deeply discounted in developing countries, so that the original products and their generic counterparts are priced similarly. This is important in the context of this bill.

Second, the fact that the innovation industry is not participating in the program increases the risk of diversion, to which Senator Keon alluded earlier. The diversion of medicines that have been supplied to the least-developed countries is the plague of this type of undertaking, and there are many documented instances of that taking place.

For example, in July 2002, a large proportion of anti-retroviral drugs that had been sold at preferential prices to a number of African countries was illegally diverted back to Europe and sold on the black market. Similarly, a supply of vaccines sent to Nigeria was falsified and the original diverted. Two thousand children died as a consequence.

We all agree that AIDS is a major public health problem in developing countries. Over the last five years, global AIDS sufferers have increased from 9 million to 42 million. In addition, according to recent reports, notably in the *British Medical Journal*, viral resistance is making some AIDS drugs less effective and others virtually useless. Certainly, none of them is curative.

Making existing drugs more available is but a short-term solution. The longer-term solution lies in research — research to develop new vaccines and new, more effective drugs. Major companies such as Merck Frosst, Bristol-Myers Squibb and GlaxoSmithKlein are spending more money on AIDS research than ever before. For those who are concerned with the magnitude of the problem, this is where hope lies.

Canada's research-based pharmaceutical companies have, since the introduction of Bill C-9, wholeheartedly supported the principles of this compassionate legislation, while insisting on transparency and on its humanitarian, non-commercial nature. In return, however, we need to acknowledge their realities, including the reality that, without their investment in innovative research, we will not have the new drugs we need so badly.

I should like to conclude by quoting Dr. Mark Wainberg, past president of the International AIDS Society, and one of Canada's leading AIDS experts. He said:

Pharmaceutical firms are to be commended for allowing the production of low-cost, generic versions of their HIV drugs for poor nations. In fact, all of the world's major companies have agreed to dual-price structures for their anti-HIV drugs. The debate over drug access has largely ignored such overtures by the pharmaceutical companies.

I believe it is also time for us to recognize this in relation to Bill C-9.

Hon. Shirley Maheu: Honourable senators, I am pleased to add my comments to the debate on Bill C-9, the Jean Chrétien Pledge to Africa act.

[Translation]

Last summer, Canada was the first country in the world to support the decision of the World Trade Organization to provide life saving and affordable drugs to doctors and nurses working in developing countries.

[English]

Notwithstanding some concerns, this bill is a bold initiative. It will help fast track medical relief to Third World countries on a humanitarian and non-commercial basis. Generic drug makers will be able to produce low-cost versions of patented drugs for export to developing countries. These drugs will be for humanitarian, non-profit and non-commercial use.

I confess that I have a parochial interest in this bill. The constituency that I represented in the other place for many years is the home of corporate giants in pharmaceutical production. Many Canadian jobs are affected by public policy in this field, especially in my part of Montreal. Drug costs, brand names, generic labels, and the provision of diagnostic and prophylactic products and other medical issues all intersect. A balanced public policy must prevail. I believe that the provisions of this proposed legislation reflect such a balance.

[Translation]

Honourable senators, the pharmaceutical industry, non-governmental organizations and the public broadly support this initiative. It is critical to set aside any diverging views in order to increase the effectiveness of this measure. Of course, in order to measure the degree of success of this undertaking, we will have to determine whether diseases were diagnosed accurately in these countries, whether treatments were applied properly, and whether there was diligent follow-up.

[English]

As a humanitarian program, I believe this initiative is as important as any public policy proposal in the field of foreign affairs being pursued currently by the Government of Canada. It speaks to several issues and vulnerabilities that are so mutually entangled and systemic as to defy solutions. It speaks to human rights, poverty, education, equal opportunity, and especially public health, as the elements of the foundation of societies wherein people can make their own choices and govern themselves.

[Translation]

The whole African continent will have to rise to the challenge and move away from tribalism, cronyism and dictatorship.

[English]

It speaks to the ultimate anarchy created by depopulation brought about by disease, especially by the plague-like epidemics of tuberculosis, malaria and HIV/AIDS.

Finally, it speaks to the dignity of the human spirit. Much has been said over the years about the responsibilities, indeed about the mission, of those who have in relation to those who do not have. I believe that we ignore at our peril this message. Future generations, the descendants of the affluent, will pay the price dearly for a refusal of duty, mission and vision now, directed to those who do not have.

[Translation]

This bill has a lofty purpose. What makes it even more important is that it is not tied to any conditions set out by the World Bank and does not come with all the bureaucracy that tied assistance usually entails.

[English]

• (1540)

This proposed legislation is a grand gesture of stand-alone ability, untarnished and unencumbered by the counterproductive conditions that are too often imposed on Third World recipients.

This legislation is both a small and large "L" liberal initiative. I believe this bill cries out for speedy approval. I urge all honourable senators not to let the imminent election call derail this bill. I urge you to hasten the progress of this bill. Let us pass this bill before the dissolution of our Parliament.

This effort promotes security and prosperity and is a recipe for peace in the developing world. Our planet has long ceased to be a globe of scattered and remote diversity. Our planet is now our very own neighbourhood.

I believe everything we do to promote stability in the developing world demonstrates that Canada is the best neighbour to have.

On motion of Senator Keon, debate adjourned.

CITIZENSHIP ACT

BILL TO AMEND—THIRD READING

Hon. Noël A. Kinsella (Deputy Leader of the Opposition) moved the third reading of Bill S-17, to amend the Citizenship Act.

The Hon. the Speaker: Are honourable senators ready for the question?

Hon. Senators: Question!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read third time and passed.

STUDY ON PRESENT STATE AND FUTURE OF AGRICULTURE AND FORESTRY IN CANADA

REPORT OF AGRICULTURE AND FORESTRY COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the fourth report (interim) of the Standing Senate Committee on Agriculture and Forestry entitled: *The BSE Crisis — Lessons for the Future*, deposited with the Clerk of the Senate on April 15, 2004.—(Honourable Senator Fairbairn, P.C.).

Hon. Donald H. Oliver: Honourable senators, this stands in the name of Senator Fairbairn, and with her leave I should like to speak to this report of the Agriculture and Forestry Committee.

Honourable senators, I am pleased today to address with you the findings of the recent report entitled, *The BSE Crisis — Lessons for the Future*, prepared by the Standing Senate Committee on Agriculture and Forestry.

As we know only too well, a single case of BSE was discovered last May in Alberta, just under a year ago. The discovery immediately caused turmoil in Canada's cattle industry and rural communities, a turmoil that continues to affect us today.

The committee saw an urgent need to study the implications of the situation and to explore potential solutions that could help prevent the recurrence of such a disaster in the future.

[Senator Maheu]

The committee heard from stakeholders from the entire beef chain, including individual farmers, farmers' organizations, packers and retailers, as well as the Minister of Agriculture and Agri-Food, the Honourable Bob Speller, and representatives from the Canadian Food Inspection Agency and Agriculture and Agri-Food Canada. We also invited representatives from rural municipalities to tell us about the impact on rural Canada.

The committee held seven meetings, sitting 14 hours in total, and listened to 27 witnesses.

This report gives an overview of the current situation and problems and proposes a long-term approach to ensuring greater security and stability for the Canadian beef industry.

Let me first note some of the key facts in this disastrous chain of events that have affected our cattle industry since the discovery of the single case of BSE in Alberta one year ago.

As soon as the discovery was announced, Canada's export of beef and cattle, which totalled about \$4 billion in the year 2002, dropped to nothing, as countries immediately closed their borders to all our cattle and beef products. Some two and a half months later, on August 8, 2003, the United States, by far our major market, accounting for some 70 per cent of Canada's exports of beef products and for nearly all of our export of live cattle, announced a partial opening of its border, allowing imports of boneless meat from cattle less than 30 months old and boneless meat from calves 36 weeks or younger. Mexico, our second market for beef, made a similar announcement on August 11, 2003.

Here is what happened, honourable senators: On December 23, 2003, a case of BSE was discovered in Washington State, in the United States of America. This discovery suspended actions that had been taken to reopen the U.S. border to Canadian live cattle. It also reinforced the argument that this was more a North American issue than a national one. In fact, the international team of scientific experts that examined the U.S. investigation of the Washington State BSE case concluded that — and this is the key, honourable senators — even though the affected animal had originated in Canada, the U.S. case could not be dismissed as simply imported. The experts stated that both the Alberta and the Washington State case must be recognized as being indigenous to North America.

The Canadian reaction to the crisis has been exemplary. Canada undertook an immediate and exhaustive investigation of the May 2003 case of BSE, an investigation that was praised by recognized international bodies such as the office international des épizooties, or OIE, the World Organisation for Animal Health, and the Food and Agriculture Organization of the United Nations. Adequate measures to increase the safety of beef were put in place, including the removal of specified risk materials. That refers to tissues such as the brain and spinal cord that, in BSE-infected cattle, contain the agent that may transmit the disease. Finally, Canadians across the country showed tremendous support to the cattle industry by increasing the domestic consumption of beef by 5 per cent from 2002, a world premiere in a country affected by an unforeseen case of BSE.

Honourable senators, in spite of these measures and even though the safety of beef is absolutely not in question in Canada, the industry has suffered and still suffers from the closure of its export markets.

Why has there been such a disaster? The answer concerns, in part, the state of Canada's domestic packing capacity. Prior to the BSE crisis, Canadian ranchers had access to packing plants not only in Canada, but also in the United States. They were thus able to benefit from competitive forces when they wanted to sell their livestock. One entire year after the U.S. border was closed, live cattle and meat from animals older than 30 months still have no access to the U.S. packers.

This situation has created a huge oversupply of live cattle that cannot pass through the bottleneck of Canada's domestic packing capacity even though Canadian packers have been slaughtering at a rate close to their maximum capacity during last fall and winter.

The Canadian cattle herd has, therefore, reached unprecedented levels. It stood at 14.7 million head in January 2004. One report we read indicated that there are 1.2 million more heads of cattle than in January 2003.

With a huge oversupply of live cattle, the price of cattle and calves dropped, almost 50 per cent between May and July 2003. In December 2003, average prices for slaughter steers and heifers in Alberta were still 18.5 per cent and 15.5 per cent lower than in December 2002, respectively. Cow-calf and feedlot operators have suffered a sharp loss of income and equity that has reduced their cash flow and their access to financing. It is estimated that the cow-calf sector lost \$3 billion in equity due to the decline in the value of the breeding stock.

• (1550)

Honourable senators, this crisis in the cattle industry has spread outward to affect other Canadian businesses and communities. Other parts of the agricultural sector such as hog, sheep and bison are feeling the effects of border closures and depressed prices. Witnesses reported many layoffs in the feedlot sector, as well as bankruptcies in the trucking industry and layoffs in a number of service industries.

Rural Canada is being hard hit. The damage needs to be addressed as soon and as broadly as is possible. There is no doubt that reopening the U.S. border in order to remove the surplus of live cattle is our first priority in the short term. Interim measures are also needed as a bridge between the current situation and the time when the U.S. border will reopen to live cattle.

These solutions have been discussed at length. At this time, therefore, I would rather address the long-term solutions that we, as a committee, have been proposing. Our first recommendation calls on the Government of Canada to funnel some of the venture capital funds that were announced in the budget specifically into additional value-added capacities for the livestock sector in both Western and Eastern Canada, and to develop, with the industry, a long-term vision for future processing in that sector so that we can do more processing in Canada.

As I mentioned previously, it is Canada's domestic packing capacity or, rather, the limitations of that capacity, that created a bottleneck, preventing the movement of cattle and creating an oversupply. This fact underlies the risk in being dependent on another nation's infrastructure to process our cattle.

As evidenced by the current trade situation with the United States, which allows imports of beef but not live cattle, borders are more sensitive to issues related to live animals. This is not to say that there is no risk in the meat market, but there is evidence that the risk is more manageable with processed products than with live animals.

We must not forget that, when the U.S. border reopens to live cattle, Canadian cattle producers will have renewed access to U.S. packing plants, turning an oversupply market into a competitive one for the packing industry. In the long term, however, there are important opportunities to build and sustain an increased capacity within Canada, notably in developing specific brands and filling niche markets.

Our second and, perhaps, most important recommendation calls for increased harmonization of sanitary standards between the United States and Canada, and a mechanism to quickly address the trade flow between NAFTA partners when a sanitary or a phytosanitary issue occurs.

In September 2003, honourable senators, you should know that the United States and Mexico jointly requested the OIE, the World Organization for Animal Health in Europe, to provide an internationally agreed-upon, scientifically-based trade response to BSE. They got together and asked for a proper response to this crisis.

After it conducted its research, the OIE issued a statement in January 2004, indicating that science-based standards for resuming trade with BSE-infected countries exists already. However, the problem is that countries do not follow it. Specifically, the OIE said:

...the existence of valid up-to-date standards did not prevent major trade disruptions due to a failure by many countries to apply the international standard when establishing or revising their import policies.

In fact, international scientific standards already exist to deal with many aspects of agriculture. The Codex alimentarius develops standards with respect to the safety of food products; the OIE establishes standards for a number of animal diseases; and the International Plant Protection Convention has developed standards to avoid the spread of plant diseases such as potato wart. These are meant to facilitate the movement of products between countries with different health and safety status.

Trade agreements such as the NAFTA and those under the World Trade Organization require that any sanitary or phytosanitary measures that a country adopts shall be based upon scientific principles and shall not be maintained where there

is no longer a scientific base for it. When a sanitary measure is thought to be disrupting trade, the WTO uses standards developed by the OIE, the International Plant Protection Convention and the Codex alimentarius to determine whether the measure is based on sound scientific principle.

For example, in the dispute that everyone will remember between Canada and the European Union over the EU ban on beef products that had been subjected to growth promoting hormones, the WTO based its rulings on the Codex alimentarius standard on the use of such hormones.

The fact that trade barriers related to BSE have never been challenged under the WTO, however, is probably our biggest problem. It shows that there is a need to develop a more practical approach to resuming trade when the disease appears in a country. This is the focus of our committee's second recommendation, enabling trade to resume in a timely manner in order to avoid the kind of dire situation our beef industry is facing today. It has been 12 months since our export of live cattle over the border was stopped.

Our second recommendation also urges the North American partners to enhance the harmonization of their sanitary and phytosanitary standards. To this end, the committee calls for the establishment of a new, permanent NAFTA agricultural secretariat, with the mandate to apply harmonized standards and recommend actions by NAFTA partners to regulate the trade flow when a sanitary or phytosanitary issue occurs.

In the case of BSE, it quickly became clear that there was no scientific basis for further restricting the movement of live animals and beef products in relation to this disease. As an independent body operating under a legally binding agreement, a NAFTA secretariat would have recognized this fact and made the appropriate recommendations to the three NAFTA partners, Canada, Mexico and the United States, thus providing leverage to remove undue trade barriers.

If this practical approach had been implemented within an approximate time frame, the BSE crisis as we know it today in Canada would not have been so damaging to our beef industry.

In conclusion, honourable senators, such a process could be helpful in any situation where a disease affects the agricultural industry. We all remember the difficulties experienced by potato farmers in Prince Edward Island when potato wart was discovered in one corner of one field in the year 2000.

We must not make our farmers hostages to politics. We must give them the assurance that there are proper mechanisms to ensure the safety of their products and that normal trade flows will be re-established as soon as the sanitary issue is under control.

Promoting rules-based trade and developing value-added processing in Canada would reduce the vulnerability of our cattle industry. The committee hopes that this study and its recommendations will help strengthen and stabilize Canada's cattle industry, and thus benefit all related aspects of agriculture that support the well-being of our rural communities and our national economy.

On motion of Senator Fairbairn, debate adjourned.

• (1600)

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SIXTH REPORT OF COMMITTEE ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Bacon, seconded by the Honourable Senator Maheu, for the adoption of the sixth report of the Standing Committee on Internal Economy, Budgets and Administration (document entitled Senate Administrative Rules) tabled in the Senate on March 31, 2004.—(*Honourable Senator Atkins*).

Hon. Norman K. Atkins: Honourable senators, I adjourned debate on this item when it was raised in the Senate for one purpose and one purpose only: to give senators and their staff a chance to read the Senate administration rules. I have now read them. I get the feeling that a number of senators have not and I think that they should.

I have been dealing with Senator Furey, and my concerns regarding this report have been satisfied. I congratulate him for his hard work on this file. As far as I am concerned, the report can now be approved.

The Hon. the Speaker: Are honourable senators ready for the question?

Some Hon. Senators: Question!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Senator Cools: On division.

Motion agreed to and report adopted, on division.

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

MOTION TO AUTHORIZE COMMITTEE TO STUDY PRIVATE MEMBERS' BUSINESS—DEBATE ADJOURNED

On the Order:

Resuming debate on the motion of the Honourable Senator Carstairs, P.C., seconded by the Honourable Senator Poy:

That the Standing Committee on Rules, Procedures and the Rights of Parliament study the manner in which Private Members Business, including Bills and Motions, are dealt with in this Chamber and that the Committee report back no later than November 30, 2004.—(*Honourable Senator Cools*).

Hon. Anne C. Cools: Honourable senators, last Thursday, April 1, 2004, I indicated that it had been my intention to speak on this motion. I would like to begin by recapitulating what happened last Thursday.

Last Thursday, in effect, a motion for the previous question was moved by Senator Robichaud. It seems that Senator Carstairs — they say “we,” so I am assuming we means the two of them — felt that it was necessary to move this extremely high-handed draconian measure without any explanation, I would say, in order to supposedly force her motion along. I would like to quote from the record, page 987 of the *Debates of the Senate* of April 29, 2004, where Senator Carstairs stated:

We are quite prepared to accept Senator Cools' word that she will speak on Tuesday, and I am sure Senator Robichaud will be quite prepared to withdraw his motion to put the question on the basis that she will speak on Tuesday.

Not only was a draconian measure moved, but it was also moved and acted upon with conditions. I submit to honourable senators that this is most unparliamentary and extremely improper. Senators should be giving long and careful pause to supporting these kinds of measures because I often think that senators do not really understand the implications of some of these initiatives.

Before continuing to the motion itself, I note that in moving his motion, Senator Robichaud has a double standard. I would like to recount that and to show that Senator Robichaud does not practice what he preaches. I would like to look to the record of the last session, in fact debate on my marriage bill, which was Bill S-15. On June 12, 2003, I moved a motion to restore my Bill S-15 to the Order Paper. Immediately, Senator Robichaud pounced on it and moved adjournment of debate on the motion. Senators must understand that there was not a substantive motion. It was simply to restore something to the Order Paper.

For the next several months, Senator Robichaud never spoke to the item, nor did he express any interest in the bill itself. He held the adjournment in his name, standing the item daily until it died on the Order Paper when Parliament was prorogued on November 12, 2003. I repeat, from June 12, 2003 to November 12, 2003, Senator Robichaud wilfully and deliberately ensured that my marriage bill, S-15, would not proceed. In effect, Senator Robichaud killed the bill by not allowing it to proceed.

Furthermore, I would like to know that Senator Carstairs has used the same procedure in respect of my initiatives in the past.

In addition to expressing that I believe these actions are deplorable, I would like to proceed now to the substance of the question before us, which is Senator Carstairs' motion for an order of reference to the Standing Committee on Rules, Procedures and the Rights of Parliament. The motion is interesting. It asks that the Rules Committee study the manner in which private member's business, including bills and motions, is dealt with in this chamber and that the committee report back no later than November 30, 2004.

I have many problems with that motion, the first of which is that the motion is extremely vague. It is very unclear and imprecise. It does not indicate or articulate clearly what the committee is being asked to do or what the committee is being asked to study. An order of reference should be crystal clear, with the instructions laid out in extremely unambiguous ways.

To learn what is being really asked by that motion, one has to look to the content of Senator Carstairs' and Senator Poy's speeches. Those speeches reveal that these two senators are desirous of having a process here in the Senate that is similar to or identical to the process in the House of Commons in respect of the reinstatement of private members' bills. I am saying that that fact is not clear. What the committee is being asked to do is not clear from the motion itself. One has to go to their speeches to discover really what is being asked for.

Essentially, it would appear that these senators are asking the committee to provide a report to the Senate making proposals in respect of what they had talked about in their speeches. I have problems with the manner and the framing of such an order of reference. There is something fundamentally flawed and wrong with it. It is so flawed, I think, as to be defective.

On the substance of the matter itself, I submit to honourable senators that the wishes of these senators in respect of what they are asking the committee to do are somewhat bizarre and unusual. Perhaps the first thing I should do is cite the House of Commons rule that is purported to be wanted, to be followed or likened or imitated in this house. That rule is 86.1 of the Standing Orders of the House of Commons. It has been put on the record here before, but I would like to say that such a process is not open to the Senate. The reason is that part of the process according to 86.1, both the old and the new 86.1, relies heavily on a certification from the Speaker of the House of Commons.

• (1610)

I shall read that part of rule 86.1.

...when proposing a motion for first reading of a public bill, states that the said bill is in the same form as a private Member's bill that he or she introduced in the previous Session, if the Speaker is satisfied that the said bill is in the same form as at prorogation, notwithstanding Standing Order 71...

Honourable senators, that process in the House of Commons relies on the Speaker of the House of Commons making an attestation or certification that the bill is in the same form as it had been previously. I would submit that the Speaker of the Senate has no such power to perform that kind of function. My basis for that is found in the differences of the offices of the Speaker of the House of Commons and the Speaker of the Senate.

These differences can be borne out by looking at the BNA Act, section 34. That section clearly sets out that the Speaker of the Senate is appointed by the Governor General by instrument under the Great Seal of Canada. The appointment of the Speaker

is at pleasure. The manner and the mode of that appointment makes the Speaker of the Senate the king's man or the Queen's man.

On the other hand, the Speaker of the House of Commons is chosen in a different manner. The form of choosing the Speaker of the House of Commons is by election by the members of the House of Commons. The election of the Speaker of the House of Commons is provided for in section 44 of the BNA Act. That section reads as follows:

The House of Commons on its first assembling after a General Election shall proceed with all practicable Speed to elect One of its Members to be Speaker.

Honourable senators, there is a reason why the Speaker of the House of Commons is called "Mr. Speaker" and ours is not. That reason is the constitutional process that makes the Speaker of the House of Commons the House of Commons person, the voice of the House of Commons. That is not the case in the instance of the Senate. The Speaker of the Senate is not the voice or the representative of the Senate.

There have been many debates in this place about this subject. I remember Senator Molgat once suggesting that the only way to remedy this was to ensure that the Senate could elect its Speaker in the same manner as the House of Commons. I do not know how that can be done constitutionally, but that is a different question.

On two other points, I should like to say why such a measure is not really available to us, the Senate. I should like to go to the question of the business of a prorogation, which is what these measures are attempting to overcome. I would submit to honourable senators that, in my view, the rule in the House of Commons is not properly constitutional. We should not attempt to imitate it because their standing order purports to defeat a prorogation.

I should like to quote George Bourinot on prorogation, from *Parliamentary Procedure and Practice in the Dominion of Canada*, fourth edition.

The legal effect of a prorogation is to conclude a session; by which all bills and other proceedings of a legislative character depending in either branch, in whatever state they are at the time, are entirely terminated, and must be commenced anew, in the next session, precisely as if they had never been begun.

I should also like to share with honourable senators what a prorogation is. A prorogation, honourable senators, is a proclamation — an order, command — of Her Majesty authorized under the letters patent constituting the office of the Governor General of Canada. Section 6 is essentially the authority for the Royal Prerogative of prorogation to go into effect.

I should like to submit to honourable senators that there is no rule of the Senate and there is no standing order of the House of Commons that can have the effect of defeating, overcoming or amending a prorogation. If I could find someone to explain how it can be purported to be done, I would be quite grateful. It is extremely improper and, I would say, contrary to the law of Parliament and contrary to the law of the prerogative.

We are in an era where chambers feel they can do quite what they like without ever articulating the principles or without ever telling us the basis in the law. The law is not something that is invented every day. The law is something that follows like a thread for centuries and centuries.

I just wanted to make the point that a prorogation cannot be defeated by any order of the House of Commons or of the Senate. I have very strong feelings about this.

There is another little bit of business of the law of Parliament that these reinstatements are overcoming. This practice is so well established, honourable senators, that it is not even in our rules — that is, the requirement that every bill will be given three readings in each chamber.

For a bill to become an act of Parliament, it must be given three readings in the House of Commons and in the Senate. The reinstatement process is improper because it does not involve three readings. . As a matter of fact, it displaces and supplants the notion that every bill should have three readings in the chamber.

I would submit some authority for this, honourable senators. William Stubbs told us, in his 1890 *Constitutional History of England*, fourth edition, the following:

The three readings of the bills are traceable as soon as the form of bill is adopted; the committees for framing laws find a precedent as early as 1340...

That fact that a bill must have three readings is an extremely ancient law. It is simply not overcome by any mere rule or order of either chamber. This is the law of Parliament. It is a body of law. It is the most understudied law in the world. In my view, it has become moribund and unknown to most members of Parliament.

I keep trying to do my little bit to bring out some of it every now and again and put it on the record, so that the students, scholars, lawyers and constitutionalists can at least look to some reference to some of these great systems on the floor of the chamber in debates.

Honourable senators, I have further authority for that. Sir Thomas Smith, a famous Member of Parliament around 1576, wrote:

All bills be thrice, in three diverse days, read and disputed upon, before they come to the question.

The Acting Speaker: I am sorry, Honourable Senators Cools, your time has expired.

Senator Cools: I would ask for leave to complete my thoughts, honourable senators.

The Acting Speaker: Is it agreed to give the honourable senator further time to finish her thoughts?

Hon. Senators: Yes.

Senator Cools: Thank you.

Honourable senators, in essence, I am saying that there is no basis whatsoever in our law of Parliament to be effecting these reinstatements. The process that is being conducted and used in the House of Commons is not up to scratch. I hope the Senate does not set out to imitate a process that is already flawed. I have discussed these processes with authorities from other jurisdictions. They are appalled when I tell them of the way in which we are reinstating bills following prorogations. I should like to submit for the record that the reinstatement process is an extremely improper one and should not be imitated or followed in any way in this chamber.

In closing, honourable senators, deviations from the rules and standards are usually only ever done for good and dramatic reasons. Returning to my original point about using motions for the previous question, which is the original closure motion, it is customary that when honourable senators move such motions they are to be moved after a speech. They do not replace speeches; they displace them.

• (1620)

In those speeches, three items, three essences should be outlined. One is the urgency for the measure — in other words, the measure is urgently needed; two, that the measure is in the public interest; and, three, that there has been prolonged and extended obstruction of the measure.

Honourable senators, I thank you for those extra minutes. As I said before, I my position is, fundamentally, that the order of reference here is unclear, it is imprecise and it is not properly articulated. In fact, it is so unclear as to be defective. That is my first point. My second point is that the order of reference seeks a response and some actions from a committee, which the law of Parliament forbids. I would remind His Honour that *Beauchesne's* and all the authorities tell us that, at all times, the Speaker should refrain from putting questions before the house that are irregular, out of order or improper.

Having said that, honourable senators, perhaps some of these issues seem arcane, but I served in this chamber during a time when a minister on the other side — it was another party — was trying to figure out how he could do away with the need for three readings for a bill because he thought one reading was enough. I know those who fought that. Honourable senators, it is most important that we maintain a parliamentary tradition and resist any attempts to transform this chamber into an assembly of some sort of a banana republic.

On motion of Senator LeBreton, for Senator St. Germain, debate adjourned.

FOREIGN AFFAIRS**COMMITTEE AUTHORIZED TO EXTEND DATE OF
FINAL REPORT ON STUDY OF TRADE RELATIONSHIPS
WITH UNITED STATES AND MEXICO**

Hon. Peter A. Stollery, pursuant to notice of May 4, 2004, moved:

That, notwithstanding the Order of the Senate adopted on February 10, 2004, the date for the final report of the Standing Senate Committee on Foreign Affairs regarding its study of the Canada—United States of America trade relationship and the Canada—Mexico trade relationship be extended from June 30, 2004 to March 31, 2005.

Hon. Marcel Prud'homme: Honourable senators, I attach a great deal of importance to foreign affairs. I always regret that this committee is not, in my view, the most flamboyant committee of the Senate but having said that, I will attempt to do that in due course.

Can Senator Stollery, who has requested such a late date for the committee to report, tell us what will happen if Her Majesty dissolves Parliament some time before Christmas? Will he table it next session or will the committee start its again? I ask this question for information because, as the honourable senator knows, I am not a member of the committee.

Senator Stollery: Honourable senators, of course, if there is dissolution of Parliament, all items will die on the Order Paper. The committee will cease to exist.

It would be totally improper for me to anticipate what the committee might do in the next Parliament. That must be a

decision of the committee of the next Parliament. However, I am obliged to make certain assumptions, and so we have asked for the terms of reference to be extended until the end of the fiscal year.

Some Hon. Senators: Question!

The Acting Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

[Translation]

ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Monday, May 10, 2004, at 8 p.m.

The Hon. the Acting Speaker: Honourable senators, is leave granted?

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned to Monday, May 10, 2004, at 8 p.m.

THE SENATE OF CANADA
PROGRESS OF LEGISLATION
(3rd Session, 37th Parliament)

Thursday, May 6, 2004

GOVERNMENT BILLS
(SENATE)

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
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GOVERNMENT BILLS
(HOUSE OF COMMONS)

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
C-3	An Act to amend the Canada Elections Act and the Income Tax Act	04/04/01	04/04/22	Legal and Constitutional Affairs	04/05/06	0			
C-4	An Act to amend the Parliament of Canada Act (Ethics Commissioner and Senate Ethics Officer) and other Acts in consequence	04/02/11	04/02/26	Rules, Procedures and the Rights of Parliament	04/03/23	0	04/03/30	04/03/31	7/04
C-5	An Act respecting the effective date of the representation order of 2003	04/02/11	04/02/20	Legal and Constitutional Affairs	04/02/26	0	04/03/10	04/03/11	1/04
C-6	An Act respecting assisted human reproduction and related research	04/02/11	04/02/13	Social Affairs, Science and Technology	04/03/09	0	04/03/11	04/03/29	2/04
C-7	An Act to amend certain Acts of Canada, and to enact measures for implementing the Biological and Toxin Weapons Convention, in order to enhance public safety	04/02/11	04/03/11	Transport and Communications	04/04/01	0	04/05/04	04/05/06	15/04
C-8	An Act to establish the Library and Archives of Canada, to amend the Copyright Act and to amend certain Acts in consequence	04/02/11	04/02/18	Social Affairs, Science and Technology	04/03/11	3	04/03/29	04/04/22	11/04
C-9	An Act to amend the Patent Act and the Food and Drugs Act (The Jean Chrétien Pledge to Africa)	04/05/04							
C-11	An Act to give effect to the Westbank First Nation Self-Government Agreement	04/04/27	04/04/29	Aboriginal Peoples	04/05/04	0	04/05/05	04/05/06	17/04
C-13	An Act to amend the Criminal Code (capital markets fraud and evidence-gathering)	04/02/12	04/02/24	Banking, Trade and Commerce	04/03/11	0	04/03/22	04/03/29	3/04
C-14	An Act to amend the Criminal Code and other Acts	04/02/12	04/02/25	Legal and Constitutional Affairs	04/04/01	0	04/04/21	04/04/22	12/04
C-15	An Act to implement treaties and administrative arrangements on the international transfer of persons found guilty of criminal offences	04/04/27	04/05/05	Legal and Constitutional Affairs					

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
C-16	An Act respecting the registration of information relating to sex offenders, to amend the Criminal Code and to make consequential amendments to other Acts	04/02/12	04/02/19	Legal and Constitutional Affairs	04/03/25	0	04/04/01	04/04/01	10/04
C-17	An Act to amend certain Acts	04/02/12	04/03/09	Legal and Constitutional Affairs	04/04/29	0	04/05/04	04/05/06	16/04
C-18	An Act respecting equalization and authorizing the Minister of Finance to make certain payments related to health	04/03/10	04/03/22	National Finance	04/03/23	0	04/03/25	04/03/29	4/04
C-20	An Act to change the names of certain electoral districts	04/02/23	04/03/09	Legal and Constitutional Affairs	04/05/06	0			
C-21	An Act to amend the Customs Tariff	04/03/24	04/04/01	Banking, Trade and Commerce	04/04/22	0	04/04/28	04/04/29	13/04
C-22	An Act to amend the Criminal Code (cruelty to animals)	04/03/09	04/04/20	Legal and Constitutional Affairs					
C-24	An Act to amend the Parliament of Canada Act	04/03/22	04/03/29	Social Affairs, Science and Technology	04/04/29	0			
C-26	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2004	04/03/22	04/03/25	—	—	—	04/03/26	04/03/31	5/04
C-27	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2005	04/03/22	04/03/25	National Finance	04/03/30	0	04/03/30	04/03/31	8/04
C-28	An Act to amend the Canada National Parks Act	04/05/04							
C-30	An Act to implement certain provisions of the budget tabled in Parliament on March 23, 2004	04/05/06							

COMMONS PUBLIC BILLS

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
C-212	An Act respecting user fees	04/02/03	04/02/11	National Finance	04/02/26	10	04/03/11	04/03/31	6/04
C-249	An Act to amend the Competition Act	04/02/03	04/04/01	Banking, Trade and Commerce					
C-250	An Act to amend the Criminal Code (hate propaganda)	04/02/03	04/02/20	Legal and Constitutional Affairs	04/03/25	0	04/04/28	04/04/29	14/04
C-260	An Act to amend the Hazardous Products Act (fire-safe cigarettes)	04/02/03	04/02/23	Energy, the Environment and Natural Resources	04/03/10	0	04/03/30	04/03/31	9/04
C-300	An Act to change the names of certain electoral districts	04/02/03							

SENATE PUBLIC BILLS

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
S-2	An Act to prevent unsolicited messages on the Internet (Sen. Oliver)	04/02/03	04/03/23	Transport and Communications					
S-3	An Act to amend the Constitution Act, 1867 and the Parliament of Canada Act (Speakership of the Senate) (Sen. Oliver)	04/02/03		subject-matter 04/03/11 Legal and Constitutional Affairs					
S-4	An Act to amend the Official Languages Act (promotion of English and French) (Sen. Gauthier)	04/02/03	04/02/26	Official Languages	04/03/09	0	04/03/11		
S-5	An Act to protect heritage lighthouses (Sen. Forrestall)	04/02/03	04/02/05	—	—	—	04/02/05		
S-6	An Act to amend the Criminal Code (lottery schemes) (Sen. Lapointe)	04/02/04	04/02/11	Legal and Constitutional Affairs					
S-7	An Act respecting the effective date of the representation order of 2003 (Sen. Kinsella)	04/02/04	Bill withdrawn pursuant to Speaker's Ruling 04/03/23						
S-8	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	04/02/05	04/02/12	Energy, the Environment and Natural Resources	04/03/10	0	04/03/11		
S-9	An Act to honour Louis Riel and the Metis People (Sen. Chalfoux)	04/02/05							
S-10	An Act to amend the Marriage (Prohibited Degrees) Act and the Interpretation Act in order to affirm the meaning of marriage (Sen. Cools)	04/02/10							
S-11	An Act to repeal legislation that has not been brought into force within ten years of receiving royal assent (Sen. Banks)	04/02/11	04/03/09	Legal and Constitutional Affairs					
S-12	An Act to amend the Royal Canadian Mounted Police Act (modernization of employment and labour relations) (Sen. Nolin)	04/02/12	04/04/28	National Finance					
S-13	An Act to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions (Sen. Stratton)	04/02/19							
S-14	An Act to amend the Agreement on Internal Trade Implementation Act (Sen. Kelleher, P.C.)	04/03/10		subject-matter 04/03/22 Banking, Trade and Commerce					
S-16	An Act to amend the Copyright Act (Sen. Day)	04/03/11	04/03/23	Social Affairs, Science and Technology					
S-17	An Act to amend the Citizenship Act (Sen. Kinsella)	04/03/25	04/04/01	Social Affairs, Science and Technology	04/05/06	0	04/05/06		

PRIVATE BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-15	An Act to amend the Act of incorporation of Queen's Theological College (Sen. Murray, P.C.)	04/03/10	04/03/11	Legal and Constitutional Affairs	04/03/25	0	04/03/25	04/04/01	

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(HANSARD)

Monday, May 10, 2004

THE HONOURABLE DAN HAYS
SPEAKER



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THE SENATE

Monday, May 10, 2004

The Senate met at 8 p.m., the Speaker in the Chair.

Prayers.

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, before proceeding to Senators' Statements, I would like to draw your attention to the presence in the gallery of the Mayor of Iqaluit, Ms. Elisapee Sheuriapik. She has just returned, as has Senator Adams, her host, from attending a Nunavut symposium at Acadia University in Wolfville, Nova Scotia, which was held to celebrate the fifth anniversary of the creation of Nunavut and its government.

Welcome to the Senate of Canada.

[Translation]

SENATORS' STATEMENTS

LÉGER-COMEAU MEDAL 2004

CONGRATULATIONS TO MI'KMAQ NATION

Hon. Viola Léger: Honourable senators, the Léger-Comeau Medal is the highest honour given by the Société nationale de l'Acadie. Created in 1985, it has been awarded to individuals and organizations, in Acadia and elsewhere, for their contribution or commitment to Acadia and the Acadian people.

Former recipients of the award include the Honourable Louis J. Robichaud, former Prime Minister Brian Mulroney, French presidents Mitterrand and Chirac, Father Anselme Chiasson, and Gérard Pelletier.

On May 8, 2004, this prestigious medal was awarded to the Mi'kmaq first nation.

The Léger-Comeau medal was presented to Grand Chief Ben Sylliboy during a ceremony to thank and honour ancestors. This was an important ceremony for several reasons, because it was not by chance that the Mi'kmaq were chosen for this award.

In bestowing this award, the Acadians want to thank the Mi'kmaq people for their help over the past 400 years. The Mi'kmaq nations have played a crucial role in European settlement of the Americas.

The Mi'kmaq showed the settlers where to hunt and introduced them to edible and medicinal plants. They taught them the rudiments of survival in this new land. Without the help and friendship of these fine people, the first European arrivals would have had little hope of survival. One winter the Mi'kmaq even

saved the starving French by inviting the settlers to live with them. The Mi'kmaq and the French also maintained a vigorous and flourishing trade in furs, the basis of the colony's economy.

[English]

Since the beginning of the 1600s to the present day, Mi'kmaq and Acadians have always had intertwined links. For almost 400 years, these two groups have lived an exceptional human and commercial relationship consolidated by marriages, by a mutual sustained nobility and by alliances. Although there have been occasional and inevitable mishaps between neighbours, the cordial understanding that unites these two groups has always been very strong.

[Translation]

The contribution by the aboriginal peoples has been and continues to be a determining factor in Canada's heritage. Settlement would not have been possible without their contribution and their peaceful interaction with the Europeans. Unfortunately, this precious contribution has not always been properly recognized.

Honourable senators, I ask you to join me in saluting this wonderful, centuries-old relationship.

[English]

NATIONAL PLAN OF ACTION FOR CHILDREN

Hon. Landon Pearson: Honourable senators, it gives me pleasure to tell you that today in the Senate lobby we launched Canada's National Plan of Action for Children, with the support of Senator Austin and many of my good colleagues.

"A Canada Fit for Children" is the federal government's response to the commitment Canada made when it endorsed "A World Fit for Children" exactly two years ago today at the United Nations General Assembly Special Session on Children.

I was particularly proud that the launch was held in the lobby of the Senate as, to some extent, I have come to see us as parliamentary elders unequivocally devoted to the well-being of the nation's children and other vulnerable groups, and able to recognize that the 21st century will belong to our children and our children's children. It is their dreams and aspirations, shaped by the circumstances into which they are born and which surround them as they grow up, that will give the century its final definition.

Those who are under 18 years of age today constitute more than one third of the world's population and are already profoundly affecting our lives by their decisions and actions. For their sake, as well as our own, we must do everything possible to reduce the suffering that weighs them down, open up their opportunities for success and ensure them a culture of respect. This is what the young people said when they spoke to us at the General Assembly in May 2002.

We want a world fit for children, because a world fit for us is a world fit for everyone.

"A Canada Fit for Children" is Canada's plan of action to construct such a world. Canadians of all ages and from every sector of society contributed their thoughts and ideas to its design. Supporting families and strengthening communities became a central theme as all of us worked together to create a cohesive strategy for improving the situation of Canada and the world's children.

We know, alas, that many children in Canada do not escape the impact of the problems of poverty, poor nutrition or abuse that afflict so many of their contemporaries in other parts of the world. We also know that the obstacles here and overseas that prevent them from realizing their rights, as defined by the UN Convention on the Rights of the Child, often seem insurmountable, yet there is much reason for hope.

During the long process of consultation with Canadians that led to "A Canada Fit for Children," it became clear that Canadians who care about or for children, including children themselves, share a common vision of what needs to be done and are prepared to commit to doing it in order to create a better future for us all.

Now we have our plan. The next challenge is to implement it.

• (2010)

ROUTINE PROCEEDINGS

NATIONAL SECURITY AND DEFENCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE

Hon. Jane Cordy: Honourable senators, I give notice that at the next sitting of the Senate I shall move:

That the Standing Senate Committee on National Security and Defence have power to sit at 5:00 p.m. on Monday, May 17, 2004, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

[Translation]

OFFICIAL LANGUAGES

BILINGUAL STATUS OF CITY OF OTTAWA— PRESENTATION OF PETITIONS

Hon. Serge Joyal: Honourable senators, pursuant to rule 4(h) of the *Rules of the Senate*, I have the honour to table petitions signed by 25 people asking that Ottawa, the capital of Canada, be declared a bilingual city and the reflection of the country's linguistic duality.

The petitioners pray and request that Parliament consider the following:

That the Canadian Constitution provides that French and English are the two official languages of our country and have equality of status and equal rights and privileges as to their use in all institutions of the government of Canada;

That section 16 of the Constitution Act, 1867 designates the city of Ottawa as the seat of the government of Canada;

That citizens have the right in the national capital to have access to the services provided by all institutions of the government of Canada in the official language of their choice, namely English or French;

That the capital of Canada has a duty to reflect the linguistic duality at the heart of our collective identity and characteristic of the very nature of our country.

Therefore, your petitioners ask Parliament to confirm in the Constitution of Canada that Ottawa, the capital of Canada be declared officially bilingual, pursuant to section 16 of the Constitution Act, from 1867 to 1982.

Hon. Jean-Robert Gauthier: Honourable senators, pursuant to rule 4(h) of the *Rules of the Senate*, I have the honour to table petitions signed by 50 more people asking that Ottawa, the capital of Canada, be declared a bilingual city and the reflection of the country's linguistic duality.

The petitioners pray and request that Parliament consider the following:

That the Canadian Constitution provides that French and English are the two official languages of our country and have equality of status and equal rights and privileges as to their use in all institutions of the government of Canada;

That section 16 of the Constitution Act, 1867 designates the city of Ottawa as the seat of the government of Canada;

That citizens have the right in the national capital to have access to the services provided by all institutions of the government of Canada in the official language of their choice, namely English or French;

That the capital of Canada has a duty to reflect the linguistic duality at the heart of our collective identity and characteristic of the very nature of our country.

Therefore, your petitioners ask Parliament to confirm in the Constitution of Canada that Ottawa, the capital of Canada be declared officially bilingual, pursuant to section 16 of the Constitution Act, from 1867 to 1982.

[English]

QUESTION PERIOD

NATIONAL REVENUE

CANADA REVENUE AGENCY— STRATEGIC BANKRUPTCIES

Hon. Donald H. Oliver: Honourable senators, my question is for the Leader of the Government in the Senate, and it deals with the Canada Revenue Agency. That agency reported recently that a growing number of Canadians are using the bankruptcy system to get out of paying their tax debts. In 2002-03, the tax agency failed to collect more than \$319 million because individual Canadians or businesses have declared bankruptcy. That is up from \$300 million a year earlier, and a steady increase from \$242 million five years previously.

The agency itself notes, in an internal report, that it is partly to blame because it has not done a good job in discouraging what it calls "strategic bankruptcies." In many cases, the government is the only major creditor.

Could the Leader of the Government in the Senate explain what specific steps the government is taking to discourage the use of strategic bankruptcy to avoid paying taxes?

Hon. Jack Austin (Leader of the Government): Honourable senators, I, too, saw the report of that story, and I must say it is refreshing to see the Canada Revenue Agency note their difficulties in dealing with strategic bankruptcies. Of course, a strategic bankruptcy is something that is hard to see coming. It is a situation where, long before the Canada Revenue Agency has reports on what is taking place on the asset and liability side of a corporation, the corporation may be insolvent, and actions may or may not have been taken to place it deliberately into insolvency.

What steps are being taken? As Senator Oliver knows, identifying the problem is the first major step. We hope that there will be ways of requiring additional reporting with the types of information that will give early warning to the CRA.

CANADA REVENUE AGENCY— TREATMENT OF DISABLED PEOPLE

Hon. Donald H. Oliver: Honourable senators, last year, the tax agency cracked down on disabled Canadians by forcing many to prove that they were still disabled, that there had not been a miracle cure and that they had not suddenly regained their vision, or tossed away their prosthetic devices. Could the government leader advise the Senate as to why the government has been so fast to crack down on disabled taxpayers and so slow to take action against those who choose to abuse our bankruptcy laws simply to get out of paying their taxes?

Hon. Jack Austin (Leader of the Government): Honourable senators, the comparison of the two points being made is unfair. They are not related.

With respect to the disabled people, the Canada Revenue Agency had had reports which led it to believe that it needed to signal a concern about certain practices that non-disabled people were taking in order to position themselves for treatment as disabled people. It was not a case where disabled people were falsely representing their disabilities.

There is always a choice. One cannot audit every taxpayer in the country. The Canada Revenue Agency is in a position where it has to determine what are the most immediate areas of concern, and what signals should be sent to various classes of taxpayers in order to remind them that there is the potential for investigation.

CANADA REVENUE AGENCY—LOST TAX REVENUES

Hon. Donald H. Oliver: Honourable senators, some of the disabled felt that the clamp down was wrongly directed at them. The *Ottawa Citizen* reports an agency spokesperson by the name of Donna Labonté as noting that this \$313 million is only a tiny fraction of the \$1 billion in taxes per day that the agency collects. My question is this: Is \$313 million the government's definition of a tiny fraction?

Hon. Jack Austin (Leader of the Government): Honourable senators, again, the question is asked in a way that creates an implied allegation that simply is not real. The statement is made in order to estimate what taxes may be lost and to provide a target for the revenue agency. Clearly, the statement is also made to warn certain classes of taxpayers that their behaviour is under scrutiny. There is no such implication in the question as Senator Oliver has given.

• (2020)

CANADA REVENUE AGENCY— TREATMENT OF DISABLED PEOPLE

Hon. Jean-Robert Gauthier: Honourable senators, I am interested in this question. People who have a permanent handicap — and I underline the word "permanent" — are required by Revenue Canada to be tested regularly. Why do they insist on constantly humiliating people? I do not understand. I am deaf; I have been tested. I am still deaf. That is what is happening out West.

I received a letter from Mr. Colin Cantlie, President of the Canadian Hard of Hearing Association. He complained about the fact that Revenue Canada is abusing the power they have by asking for repeat testing of people who are permanently handicapped. Why is this situation allowed to persist?

Hon. Jack Austin (Leader of the Government): Honourable senators, I will inquire whether there are repeated investigations of the kind raised by Senator Gauthier. However, I will tell senators that if Senator Gauthier tells us he is deaf, he is deaf.

NATIONAL DEFENCE

POSSIBLE TRANSFER OF HEADQUARTERS

Hon. J. Michael Forrestall: Honourable senators, my question is for the Leader of the Government in the Senate and is in regard to real estate and the Department of National Defence.

I have been told that Minto Developments is in the throes of arranging to purchase the JDS Uniphase complex in the riding of the Minister of Defence. The cost of the property, if purchased outright, would be in the order of \$100 million.

Should Minto purchase the JDS property and lease it back to the government, that would make it terribly convenient and easy on the Minister of National Defence in the face of the potential closure of four or five major bases in Canada.

Could the Leader of the Government in the Senate confirm if he has any knowledge or information that Minto has indeed entered into negotiations with the Government of Canada regarding this transaction?

Hon. Jack Austin (Leader of the Government): Honourable senators, Senator Forrestall has asked this type of question of me in the past. I can tell him that I have no information whatsoever of any potential or actual commercial relationship between Minto Developments, an Ottawa-based company, I understand, and JDS Uniphase or anyone who owns the building formerly occupied by them.

I have reminded honourable senators that Minister Pratt has recused himself from transactions that might in any way take place within his constituency boundary.

Senator Forrestall: Honourable senators, that is very convenient, too.

It is rather curious where priorities come from. This deal has been cooking and simmering and has been cold then hot again for some time. As a matter of fact, I remember raising this question 20 or 25 years ago. At that time I wondered why in God's name the current structure was built. We put the Department of National Defence in a building that was not even intended for it. We will now put it in a manufacturing plant in the heart of the minister's riding so he can go home for lunch. That is not a bad idea.

Are negotiations underway between the Government of Canada and Minto Developments for the lease of the JDS property?

Senator Austin: That is a fair question and I will make inquiries to determine if there is any such activity. Having said that, I have no information.

Senator Forrestall and I have also had exchanges regarding the physical security of the headquarters office of the Department of National Defence attached, as it is, to a shopping centre with a road running underneath it. Surely, this is one of the most vulnerable headquarters for a national defence office anywhere. If one were to compare it with the Pentagon and the security ring that surrounds that building, one would see the difference.

Honourable senators, I do not know whether Senator Forrestall and I have a difference of view in regard to the security of the present headquarters. In the past, I have heard Senator Forrestall say things similar to what I have just said. Perhaps he has a policy of moving the headquarters anywhere but to Mr. Pratt's riding.

Senator Forrestall: In response to the comments of the Leader of the Government in the Senate, I would move the headquarters to Trenton, the base that the government is about to close. That base is within easy proximity of major population centres in this country. I would not move the headquarters to the west end of this city, which would add another 3,000 or 4,000 cars to an area that is already plagued by horrendous traffic problems.

National Defence Headquarters could be moved to many places. The government could put the headquarters in Shearwater, which would love to have it.

Senator Robichaud: Moncton would be good, too.

Senator Rompkey: Goose Bay!

Senator Forrestall: The question is still there: Is the minister prepared to shed some light on this matter in order that proper planning might be done by the City of Ottawa? For example, have there been any discussions with the City of Ottawa with respect to moving this number of people, most of whom live either in the south or to the east? To have them now converge and travel to the west end of the city will cause further congestion. Has anyone spoken to the representatives of the City of Ottawa about the difficulties such a move might entail?

Finally, are there an estimate as to the cost the government would have to undergo to make the JDS building suitable to house the Department of National Defence? After all, it was built as a manufacturing plant with a small office complex attached.

Senator Austin: Honourable senators, first, as I have said repeatedly, I have no knowledge of any intention to move the Department of National Defence anywhere.

Second, I have agreed to make inquiries to see if I could provide Senator Forrestall and honourable senators with information regarding his specific question relating to the JDS Uniphase building and Minto Developments.

On the hypothesis that it is desirable to move the Department of National Defence, I am glad to see that Senator Forrestall is asking practical questions relating to comparative costs. I am interested in Senator Rompkey's suggestion. I wonder what it would cost to move the headquarters to Goose Bay and what it would cost to build a facility at Trenton and so on. Those are all valid questions, should it be the policy to undertake a move of the National Defence Headquarters. However, I wish to assure the Honourable Senator Forrestall that I will pursue the matter.

PRIVY COUNCIL OFFICE

RECUSAL POLICY FOR MINISTERS

Hon. Lowell Murray: Honourable senators, I hope that I heard the Leader of the Government in the Senate correctly. I understood him to say that the Minister of National Defence recused himself from any decision that might have a bearing upon the constituency of the minister.

Does the specific application of a new general policy apply to all cabinet ministers? What is the principle that is being defended? Will the Leader of the Government in the Senate provide a written statement as to this new policy, if that is what it is, and how it is to be implemented?

• (2030)

Hon. Jack Austin (Leader of the Government): Honourable senators, I would be delighted to provide a written statement of the policy of recusal when the appearance of a conflict of interest suggests itself, as determined by either the Ethics Counsellor or the minister involved.

The general principle is essentially the appearance of a conflict. Obviously, if there was a conflict, it would be included, but if there is even the appearance of a conflict, the minister is asked to recuse himself from his ministerial responsibility and a person is appointed to act for the minister perhaps, for example, another minister who does not have such a conflict and that person would then take any decision required to be taken in the circumstances.

Senator Murray: Honourable senators, the Leader of the Government seems to be confusing the question of a personal conflict of interest, in which a minister or his family might have a financial or other interest in a matter, and the question of a constituency interest. This is not a personal conflict of interest, as I understand it, that affects the Minister of National Defence.

If ministers are to be precluded from taking part in decisions that might have the effect of conferring a benefit on their constituency, the system is truly being distorted somewhat, I would think.

Senator Austin: Honourable senators, that is the position that the Minister of National Defence has taken, and I am sure it was at the urging of Senator Forrestall.

Hon. Marjory LeBreton: Honourable senators, I have a solution to the problem of a conflict. The JDS Uniphase building is quite a nice facility in the neighbourhood where I was raised, which was farmland at that time. The solution is to remove the minister in the next election.

FOCUS GROUP RESEARCH—TRANSFER OF SERVICES FROM COMMUNICATIONS CANADA

Hon. Marjory LeBreton: Honourable senators, my question is directed to the Leader of the Government in the Senate. We have learned that the Prime Minister spent \$50,000 on focus groups to come up with a title for the Speech from the Throne. The \$50,000 report, prepared by Les Études de Marché Créatec, said no clear winner for the title emerged from eight focus groups. It is interesting, however, that many focus groups identified mismanagement as a problem.

Perhaps the government felt it could not use the title, "We're Sorry We're Wasting Your Money," so they had to drop the idea altogether.

Can the Leader of the Government tell us what other pre-election initiatives have been the subject of focus groups and how much money has been spent on conducting focus group sessions?

Hon. Jack Austin (Leader of the Government): Honourable senators no, I cannot.

Senator LeBreton: Honourable senators, according to media reports, it was the Privy Council Office that contracted for the Throne Speech focus groups. We know from a delayed answer tabled here in the week of April 1 that the Privy Council Office picked up control and supervision of the Regional Operations Branch, the Public Opinion Research and Analysis Directorate, the Information Services and the Communications Support Group in Communications Canada.

Can the Leader of the Government tell us if focus group research is one of the areas that was transferred from Communications Canada to the Privy Council Office?

Senator Austin: Honourable senators, I believe so.

Senator LeBreton: Honourable senators, on March 22, 2004, I asked a question about the transfer of responsibility from Communications Canada to the Privy Council Office. From the delayed response tabled last week we know that as of April 1, 2004, 105 full-time equivalent positions were transferred to the Privy Council Office, but we still do not know the cost of these changes.

I note in the response to my March question that the Main Estimates give absolutely no information on how much Canadians will pay to carry on the work of Communications Canada. Can the Leader of the Government tell us when Canadians will know the total cost the Government of Canada is projecting for former Communications Canada services, including polling and advertising?

Senator Austin: Honourable senators, I will take the question as notice.

FISHERIES AND OCEANS

ILLEGAL FISHING BY FOREIGN VESSELS OF NOSE AND TAIL OF GRAND BANKS

Hon. Ethel Cochrane: Honourable senators, my question relates to the press conference last Thursday held by the Minister of Fisheries and Oceans, the Minister of Natural Resources and the Minister of Foreign Affairs regarding the need to crack down on illegal fishing by foreign vessels on the Nose and Tail of the Grand Banks.

At this press conference, the ministers announced that citations had been issued to foreign vessels for illegal fishing. Over the last 10 years, Canada has issued in excess of 300 citations, so this is absolutely nothing new. Why, then, was there sudden, elevated attention paid to the issuing of citations last week when it has been a regular practice for the last decade? Does this represent a change in government policy or is it just another example of pre-electioneering by the government?

Hon. Jack Austin (Leader of the Government): Honourable senators, the matter is one of very serious concern. I am sure Senator Cochrane knows that foreign trawlers fishing the Nose and Tail of the Grand Banks are using illegal means to recover species and/or are recovering moratoria species. This matter has been of growing concern.

The government received some early indications that certain Portuguese trawlers were in breach of the North Atlantic fishing treaty and the agreed practices thereunder. We have now demonstrated, by boarding these trawlers, that illegal practices have in fact been conducted, and one Portuguese trawler has now been recalled to Portugal after inspection.

The matter is not simply one of pre-election staging, and I am sure that Senator Cochrane is satisfied with my answer.

Senator Cochrane: Honourable senators, I am definitely not satisfied with that answer. Earlier this month, fisheries officials say that the captain of the *Brites*, the Portuguese trawler to which Senator Austin has referred, cut its net free during an inspection. On Saturday, the recovered net, containing fish presently under moratoria, was put on display for the news media. In the words of fishery expert Gus Etchegary, this act was regarded by most people in Newfoundland and Labrador involved in the fishery as a charade.

Earlier today it was announced that, after high-level negotiations with Portuguese officials, the *Brites* is returning home for inspection. However, an EU fisheries inspector — not a Canadian fisheries inspector — will accompany the vessel to Portugal. Mr. Etchegary tells me that unless a Canadian observer is on the vessel, the evidence will not be there when the ship arrives in port. This has happened time and again, and I am sure that Senator Austin has read about it time and again.

Can the Leader of the Government in the Senate tell us what this approach has accomplished? Is this the sort of decisive action the government promised last week when it said it was taking immediate and decisive action in response to illegal fishing by foreign fleets on the Nose and Tail of the Grand Banks?

Senator Austin: Honourable senators, under the North Atlantic fishing treaty, Canada has no right of arrest. It can only inform the host country of a transgression. In order to demonstrate that transgression, the host country must send inspectors to establish the facts alleged by the Canadian inspector. This has been done.

Of course, it is not necessary for us to have an inspector on the trawler as it returns to Portugal. All the evidence is captured by other means and in other manners. We do not need to have a person sitting there, staying up all night, worried that evidence might be removed from the ship. The evidence was taken when the inspection was made. I believe that, in this particular circumstance, Canada's point will be proven.

I am sure the honourable senator also believes that we should take action, rather than do nothing, as her question is suggesting.

Senator Lynch-Staunton: Ask Senator Cook how she feels!

HEALTH

EFFORTS TO ALLEVIATE UNCERTAINTY SURROUNDING CARE SYSTEM—10-YEAR PLAN

Hon. Wilbert J. Keon: Honourable senators, I have a question for the Leader of the Government in the Senate.

Honourable senators, there is fear in the medical community that the current tone of the debate surrounding health care means that the hard issues that need to be dealt with are not being discussed in a meaningful way. In a speech this weekend, the President of the Canadian Medical Association, Dr. Sunil Patel, stated that the CMA is concerned that the health issues that Canadians want discussed, such as how to improve access to quality health care services, and which services to publicly insure, will not be debated in detail.

How will the federal government address the uncertainty surrounding the health care system for both patients and the medical profession?

Hon. Jack Austin (Leader of the Government): Honourable senators, this is a debate that is of the maximum importance to individual Canadians. As Senator Keon is well aware, and as we have discussed in past exchanges, the federal government and the provinces and territories will be meeting in late July to raise a number of significant questions. The federal government, as the honourable senator knows, has, on the table, proposed additional funding, provided that certain objectives can be met by the provinces with those additional funds.

The objectives include many of the questions that the honourable senator has asked in the past. However, as Senator Keon knows, the federal government today is providing \$34 billion to the health care system and is prepared to add to that sum, based on a successful outcome to the discussions.

The honourable senator is also very much aware of the discussions led by Prime Minister Chrétien last year with the provinces, where a health accord was entered into. The meeting in July will further the objectives of that health accord.

Senator Keon: Honourable senators, certainly everyone was happy with the increased funding that came out of the health accord, but there is now discussion about a 10-year plan that will be reached — or not — with the provinces this summer. The problem is that this 10-year plan is not out in the open for people to discuss, debate and react to. There is a huge area in there with regard to how services should be delivered and whether we can continue to be the only country in the world with no competition in the delivery of health care services. We all agree that we want a single payer, but we remain the only country in the world that has no competition in the delivery of health care services.

• (2040)

I am sure the honourable senator does not take casually the interests of Atlantic fishermen. There is a very serious problem — as I am sure she knows; otherwise, she would not have asked these questions to begin with — and I do not believe that the honourable senator is urging us to take control of the Nose and Tail of the Grand Banks, contrary to international law. I am sure she believes we should carry out our actions in accordance with our international treaty obligations.

[Senator Austin]

Many people believe this situation simply cannot continue. If there is to be a 10-year plan, surely it should be published as soon as possible so that everyone can have access to it, particularly the health care professionals.

Hence, I am asking the minister when this plan will be released. I am not just asking him to tell me the date of the election. Will the details of this plan come out before the election, or will it be put on the back burner, followed by an election call, with the Prime Minister then going before the provinces without an appropriate public debate?

Senator Austin: Honourable senators, I cannot predict how the debate on health care will develop, but I can confidently predict that there will be a debate on health care. Whether the federal government will table the material and the objectives of a 10-year plan during the election or will wait until after the election, I cannot answer at this time, but I do know that the discussions at the government-to-government level are extremely active in preparation for the meeting in July.

Everything seems transparent today. If I miss a caucus meeting, I can get more information about it from the newspaper than I can from my colleagues.

I think that there will probably be a very fulsome debate.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour to present delayed answers to oral questions posed in the Senate. The first delayed answer is to an oral question posed by Senator Andreychuk on March 11, 2004, regarding the proposed investigative unit to combat human smuggling. The second delayed answer is to an oral question by Senator Angus on March 11, 2004, regarding the confidential informant Stevie Cameron and the cost of investigating leads. The third delayed answer is to an oral question by Senator Stratton April 20, 2004, regarding public safety and emergency preparedness. Finally, the fourth delayed answer is to an oral question by Senator Andreychuk on May 5, 2004, regarding the federal student work experience program and its availability outside the Ottawa region.

ROYAL CANADIAN MOUNTED POLICE

PROPOSED INVESTIGATIVE UNIT TO COMBAT HUMAN SMUGGLING

(Response to question raised by Hon. A. Raynell Andreychuk on March 11, 2004)

After the events of September 11, 2001, the RCMP intensified its efforts with regards to Border Integrity and implemented numerous initiatives to reinforce Canada's borders. For example, it has established the following teams: Integrated Border Enforcement Team (IBET), Integrated Immigration Enforcement Team (IJET), and Integrated National Security Enforcement Team (INSET). The mandate of these teams encompasses the detection, prevention and enforcement of illegal activities at the border, including human trafficking and smuggling.

The Immigration and Passport (I&P) Program plays a critical role within the overarching umbrella of Border Integrity. The focus of I&P must be on Border Integrity and developing the capacity to pro-actively investigate transnational criminal organizations that facilitate illegal migration to Canada and the resultant victimization of both the people they smuggle and traffic, as well as the overall victimization of Canadian society. As a result, the RCMP's I&P Branch in concert with their partners, has identified trafficking/smuggling of persons, in particular women and children, as one of four joint national priorities. The RCMP regularly reviews its programs to ensure resources are aligned with priorities. Consistent with this, the I&P Branch completed a comprehensive Program Review in October 2003 to ensure their resources are aligned with the RCMP's strategic priorities.

The rollout of the Program Review is underway with commitments being obtained from respective Divisions for the **re-allocation of existing funded positions** to six locations. The re-engineering of the Program will create:

- **Regional I&P teams** in Vancouver, Calgary, Greater Toronto Area, Ottawa, Montreal and Halifax. The focus of these intelligence led teams, when fully established, will be to combat and disrupt organized migrant **smuggling and trafficking** of persons, with a more recent emphasis being placed on those individuals and/or organizations that pose a threat to the security of Canada. The regional teams, when in place, will provide the critical mass of I&P resources to meet the expectations of the RCMP and the Government of Canada.

- **A dedicated human trafficking unit** to be co-located with the Ottawa I&P team. This unit will focus on coordinating domestic and international trafficking investigations. Furthermore, it will interact with foreign law enforcement agencies in support of the other six teams and advocate education, prevention and awareness as it relates to this global phenomenon.

CONFIDENTIAL INFORMANT STEVIE CAMERON— COST OF INVESTIGATING LEADS

(Response to question raised by Hon. W. David Angus on March 11, 2004)

This matter is currently before the courts. A Preliminary Inquiry concerning a criminal charge of Fraud arising from this investigation resumed at Ottawa on April 19, 2004, having already heard evidence in September and October of 2003 and now has been adjourned to a date to be fixed in September or October 2004. On the specific issue of Ms. Cameron, a Justice of the Superior Court of Ontario is holding an inquiry — the exact terms of which are yet to be decided by the court — into the circumstances surrounding the sealing of limited search information on the basis of protecting Ms. Cameron's identity. This proceeding resumes at Toronto on May 31, 2004.

As these matters are before the court no further comment is appropriate.

PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

POSSIBLE TERRORIST ACTIVITY— LEVEL OF SECURITY

(Response to question raised by Hon. Terry Stratton on April 20, 2004)

Canada does not have a public warning system such as the US Department of Homeland Security's Homeland Security Advisory System. The Government of Canada is exploring various options at this time.

Presently, the Canadian security and intelligence community assesses terrorist threats as they apply to Canada. Should the circumstances warrant, the Government of Canada is prepared to respond to protect the safety and security of Canadians, including advising the public.

While a general threat of terrorism exists, there is currently no specific threat to Canadians or Canadian interests.

Canada has been working in a heightened security environment since September 11, 2001. The Government of Canada's efforts in the areas of public safety and national security continue to be a priority. We have put in place a flexible system capable of quickly adapting to new demands. As a guiding principle, we proceed on the assumption that our approach is a constant work in progress.

Vigilance and close collaboration, within and outside our borders, will remain our best defence against terrorism.

PUBLIC SERVICE COMMISSION

FEDERAL STUDENT WORK EXPERIENCE PROGRAM— AVAILABILITY OUTSIDE OTTAWA REGION

(Response to question raised by Hon. A. Raynell Andreychuk on May 5, 2004)

The Public Service Commission (PSC) is the independent agency mandated by Parliament to ensure a Public Service that is competent, non-partisan, representative of the Canadian population and able to serve the public in the official language of their choice.

The PSC is committed to enhancing Canadians' access to federal Public Service jobs, including student jobs.

The Federal Student Work Experience Program (FSWEP) is the primary vehicle for recruitment into temporary student jobs in the Public Service of Canada. It is administered by the PSC on behalf of the Public Service Human Resources Management Agency of Canada (PSHRMAC).

Many believe that most student jobs are in the Ottawa area, however this is not the case. During the 2002-2003 FSWEP campaign, 37 per cent of student jobs were located in the National Capital Region (NCR), while 63 per cent were outside the NCR. These proportions are consistent with the overall population distribution of Public Service employees.

Even so, geography has been used as a criterion as there has been an interest in affording local students a chance to secure employment within their respective communities.

Operational considerations such as the length of the assignment and part-time nature of employment can make expanding the area of selection nationally impractical.

Nevertheless, the PSC will launch a pilot project for the fall 2004 FSWEP campaign for certain types of jobs in the NCR where all students interested in working in the NCR, regardless of their area of residence, can be considered for student employment.

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I should like to ask a question of the leadership on the government side, as we have on our Orders of the Day a series of bills with which we wish to deal today. Item No. 5 is Bill C-9. I should like to raise an idea with regard to it, as I think it involves a community of interest. Senator Corbin spoke very clearly at our last sitting about a problem with the bill. It is my understanding that the minister has recognized this problem.

We on this side and, indeed, our colleagues in the other place, are supportive in principle of the bill, but there is a problem. I have a suggestion that I believe could get us around that problem. The government could approach their colleagues in the other place, and those colleagues could speak to others, to the effect of withdrawing this bill, with the unanimous consent of this house, and returning it to the House of Commons to make that amendment. The House of Commons could get the amendment done in a day or so. We have the ability of stretching our time out; they do not. They are under an order not to be here next week.

• (2050)

The problem is that the Senate is not being involved in the process. We are all agreed, as both Senator Corbin and Senator Sparrow articulated so clearly, that the House could make that amendment and get the bill right back to us. Therefore, we put this suggestion forward in the spirit of cooperation.

We can check the record, but I think that our colleagues in the other place have supported the bill, and I think we could achieve the kind of result that members of both sides of the Senate want to achieve. I raise this matter before the item is called because we have a couple of senators who wish to speak, which would give the leadership on the other side of the chamber time to reflect upon the suggestion.

Hon. Jack Austin (Leader of the Government): Honourable senators, I have had no notice of the suggestion. While I take it seriously, there are some questions that need to be asked. With four parties in the other place, one does not know how they would all respond to such an idea. While the party to which Senator Kinsella belongs may be quite cooperative, others may not.

I find myself in the position of agreeing with Senator Kinsella that Bill C-9 is very important for Canadians. It is a statement of Canadian values and of Canada's role in the world. This bill should be passed. I would urge colleagues to continue the debate tonight because the bill must move forward.

The Minister of Foreign Affairs is ready and waiting to appear before the Foreign Affairs Committee should it be asked to deal with the bill tomorrow. I think we have a very satisfactory fall-back position in the undertaking of the Minister of Industry to ensure that there will be an appropriate amendment to the bill in the next session. Of course, that is conditional on this government being re-elected. However, I am sure that if the voters elect the Conservatives, the party to which Senator Kinsella adheres, they would follow the same undertaking because it is significant to the dignity and proper role of this chamber.

I wish to thank Senator Kinsella for his suggestion. I would very much like the bill to proceed in its current course, but I will make inquiries tomorrow, at the first opportunity, which will be fairly early, to see whether the house leader in the other place would quickly assemble a house leaders' agreement.

I take it, then, that there would be an assurance from the opposition that they would not seek to amend other parts of the bill.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, Senator Kinsella never said that. Senator Kinsella said that he wanted to build on what Senator Corbin said, based on Senator Sparrow's insistence that the Senate should be involved in a certain proceeding resulting from the bill. All he is suggesting, which makes a lot of sense, is that we send the bill back to the House tonight and say, "This is what we would like to see happen. If you do not like it, send it back to us tomorrow or the day after and we will dispose of it."

I do not think what my honourable friend finds here is an objection to the bill. What he finds, I think, is a feeling on both sides that the Senate would like to be part of a process that the House of Commons has decided belongs only to it.

Senator Austin: Honourable senators, I did not hear from Senator Lynch-Staunton an unequivocal agreement that the bill would not otherwise be amended. If I am correct that the official opposition in the Senate is reserving its opportunity to debate other parts of the bill, then I do not think that the suggestion is forthcoming.

Senator Oliver: That is not what he just said.

Senator Austin: I should like to hear the honourable senator say that there is no other part of this bill to which an amendment would be suggested.

Senator Lynch-Staunton: Honourable senators, I did not hear Senator Kinsella say that we had no other objections to the bill. That is not what he said. We have no objections to the bill. We think it is well thought out, although its implementation may be difficult, but time will tell. We are sympathizing with Senator Sparrow's intervention last week, supported by Senator Corbin and by others on both sides, that the Senate should be equal with the House of Commons in a certain process. Senator Joyal and others have insisted that we not be neglected in certain legislation, as we have seen the last long while. All we are suggesting is that the bill should be sent back to the House of Commons as soon as possible. Tell them that we have no objection to it but that we do not like this idea that they feel that they alone can take certain decisions or give certain recommendations. Put us on par with them. The bill can then be sent back to us. I can assure my honourable friend that we will refer it to committee and hear whomever is responsible for the bill and that there will be no objection to passing it following the particular procedure that we are strongly urging upon all honourable senators.

Senator Austin: Honourable senators, I think the best way of proceeding, then, is for this house to continue with the bill and send it to committee tomorrow. I will make inquiries. If an amendment would be agreed to by all the parties in the other chamber, we will send this bill on third reading, with amendment, to the other chamber so that they can make the final amendment. It would not have to be returned to this chamber.

Senator Kinsella: Honourable senators, I thank the Honourable Leader of the Government in the Senate for that offer.

While we in the Senate have time, the House of Commons is under an order to rise on Friday of this week. If we follow our procedure and make an amendment, by the time the message is sent after third reading in this chamber, it will be too late. That is why, with agreement we propose that the House make this change to the bill tomorrow or the next day. We could then receive it, having been amended, and reintroduce it here. We can be here all of next week as well, but the House of Commons will not. That is the problem.

Senator Austin: Honourable senators, it is an awkward process to send a bill back at this stage and have members of the House deal with it. In the meantime, it takes time for the parties on the other side to discuss their positions. If this is to be done at all, then the best form, I suggest, is for us to pass the bill with the appropriate amendment. Under the current standing order, the House will be sitting until Friday afternoon. If there is an all-party agreement in that chamber, they can pass the amendment in a second or two.

Senator Lynch-Staunton: Honourable senators, does that mean, then, that the Leader of the Government in the Senate will be in agreement that, if we pass an amendment tonight or tomorrow, to give the House time to consider it, we will be able to do so?

Senator Austin: First, I will have to make inquiries to make sure this is a practical course of action.

Senator Lynch-Staunton: Yes or no?

Senator Austin: Senator Lynch-Staunton, you are making me feel uncomfortable. As I pointed out, there are four parties in that chamber. The agreement of your party alone would not carry the suggestion that has been made by the Honourable Senator Kinsella.

Senator Lynch-Staunton: All I am saying is that if the Senate unanimously recommends to the House of Commons that an amendment to be included in a certain process is something that we feel the House should pass, all they have to do is say no, send the recommendation back to us and then we will abide by their decision. We could do that tonight. What is the problem?

• (2100)

I have asked the leader a question. I guess he does not have to answer it, but Orders of the Day has been called. Senator Kinsella did make a recommendation. We could bring up this bill right now, make an amendment and have it passed. We could then send it to the House of Commons, where, I hope, they will agree to it.

Senator Austin: Is the suggestion that we would carry the bill through third reading with an amendment right now and then send it to the House?

Senator Lynch-Staunton: Yes.

Senator Austin: I would ask for a few moments to consider the suggestion.

Senator Lynch-Staunton: Senator Austin is the representative of the government here.

Senator Austin: When urged to decide, I am even more cautious.

CANADA ELECTIONS ACT INCOME TAX ACT

BILL TO AMEND—THIRD READING— DEBATE ADJOURNED

Hon. Terry M. Mercer moved third reading of Bill C-3, to amend the Canada Elections Act and the Income Tax Act.

He said: Honourable senators, I am pleased to launch the third-reading debate of Bill C-3, to amend the Canada Elections Act and the Income Tax Act. Bill C-3 provides a timely response to the decision of the Supreme Court of Canada in the *Figueroa* case and ensures the effective functioning of our electoral system.

In its decision, the Supreme Court ruled that the 50-candidate requirement for party registration violated the Charter by disadvantaging small parties. However, the court suspended its ruling for one year until June 27, 2004, to give Parliament time to amend the law. Without remedial legislation, there will be a major gap in Canada's electoral laws. This will create a significant risk of financial abuse and will compromise the proper functioning of our electoral system. Therefore, doing nothing is not an option.

Honourable senators, I do not intend to use my remarks today to review the bill's provisions in detail. That ground has been covered and parliamentarians have had an opportunity to review and debate the legislation.

Let me summarize by reminding honourable senators of the bill's two key pillars: First, it replaces the 50-candidate threshold with a single-candidate requirement, adds a purpose-based definition of what a party is and introduces other new requirements for party registration and accountability. Second, the bill includes a series of anti-abuse measures and allows deregistration of parties whose conduct has been fraudulent.

Let me pause for a moment on the definition of "political party" and why it speaks of fielding candidates as being "one of" rather than "the" fundamental purpose of the organization. Simply put, the definition reflects the reality that parties pursue a variety of objectives. This avoids unnecessary controversy over the primary purpose of the party, which could lead to controversial judgment calls.

Many provinces in Canada have similar definitions of political parties in their jurisdictions — that is, British Columbia, Manitoba, Saskatchewan, my home province of Nova Scotia and Newfoundland and Labrador. At the same time, the bill must distinguish political parties from mere interest groups. The definition accomplishes that objective. Obviously, a bill dealing with political party registration will generate debate. The issues addressed are sensitive to us all and finding the right balance is not an exact science.

Parties need to operate with a considerable degree of independence in order to fulfil their essential role in Canadian society. At the same time, it is important to ensure transparency and accountability. While this legislation may not be the final word on party registration, I believe it strikes the best balance possible within the deadline imposed by the Supreme Court.

In that regard, I would remind honourable senators that Bill C-3 includes an important amendment, moved by the government before the Standing Committee on Procedure and House Affairs, to add a two-year sunset clause. This means the provisions of Bill C-3 will expire two years after they come into force, thereby ensuring that Parliament will have the opportunity to revisit these issues in the near future.

Thus, Bill C-3 is really a bridge to a broader review. It provides a targeted and timely response to the Supreme Court's ruling while creating room for Parliament to undertake a more thorough examination of these issues. In fact, the government has already invited the House of Commons Standing Committee on Procedure and House Affairs to review the broader implications of the *Figueroa* ruling and other aspects of the electoral process. Likewise, I am pleased to note that the government house leader made it clear during his appearance before the Senate committee that the government is very interested in hearing the views of senators on these issues as well.

Before closing, let me briefly address the issue of coming into force. There has been discussion that this bill will only come into force on the day it receives Royal Assent if that date is after June 27, 2004. Let me be clear: This provision is not a loophole,

as some have suggested. The bill clearly contemplates that it should, in principle, come into force no later than June 27, 2004. However, as a matter of prudence, it is drafted to address the possibility that it may not be passed by Parliament until or shortly after June 27, 2004. In that case, and only in that case, it would take effect on the day it receives Royal Assent. This simply reflects the legal reality that legislation cannot take effect before it is assented to by the Governor General.

In any case, the issue is avoided entirely by passing the legislation now, ensuring that the Canada Elections Act remains operational and that there is no legal vacuum.

In conclusion, honourable senators, the Supreme Court's ruling in *Figueroa* has provided us with an important opportunity. In responding to the decision, we are given the opportunity to revamp our system of party registration ensuring that true political parties have greater access to party registration while, at the same time, preventing abuse by that who are not genuine.

These changes are very much in keeping with the democratic renewal that Canadians are demanding and that the government is delivering through its democratic reform agenda. By increasing access to registration and allowing more political parties into the system, there will be a wider spectrum of opinion available to Canadians when they are making their choice in an election.

Choice is a good thing for democracy. It may even help to re-engage Canadians in the political process and to address declining voter participation rates, particularly among young Canadians.

Of course, this bill is not the last word in making our electoral system better, but it is an essential step towards that goal. It provides a balanced, targeted solution that protects the integrity of our electoral system, respects the ruling of the Supreme Court and guarantees a role for parliamentarians in examining these matters in the future.

For these reasons, I urge honourable senators to support this important proposed legislation.

Some Hon. Senators: Hear, hear!

On motion of Senator Oliver, debate adjourned.

PARLIAMENT OF CANADA ACT

BILL TO AMEND—THIRD READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Morin, seconded by the Honourable Senator Downe, for the third reading of Bill C-24, to amend the Parliament of Canada Act.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, Senator Kirby covered the main highlights of this bill last week, as well as emphasizing its origins. The Social Affairs Committee made observations that are

an excellent summary of its concerns and apprehension. Nonetheless, I intend to elaborate on these themes, as well as to later highlight one unintended effect that Bill C-24 may well produce.

The first intended effect of this bill is to allow parliamentarians who retire between the ages of 50 and 55 to receive coverage under medical, dental and life insurance plans, although they would not be in receipt of a pension until age 55. At the moment, these benefits are only available to members of Parliament who are entitled to a pension, which by law they are not entitled to until they reach the age of 55.

• (2110)

The second effect is to ensure that parliamentarians over the age of 65 who are in receipt of a disability allowance are eligible for medical plan coverage. This second matter is one of clarification, and is required only because it appears that the governing statute does not provide sufficient certainty and clarity. It would be an anomaly if eligibility for medical coverage were to cease at age 65 only for those receiving a disability allowance and not for those in receipt of a retiring allowance. There is no objection to this particular provision.

Bill C-24 received an expedited passage through the other place. In the first session of the 37th Parliament, Bill C-28, which created the disability allowance for parliamentarians over the age of 65 as one of its components, was introduced in the other place on June 4, 2001, in the Senate on June 11, and received Royal Assent on June 14. It is only speculation on my part, but I think it is safe to assume that Bill C-24, which is before us, arises from the expedited treatment of legislation in 2001, when scrutiny and examination were somewhat lacking, to say the least.

This remarkably swift process by which the other place — and on occasion, this place — deals with bills covering remuneration and benefits of parliamentarians is one which has, as a natural concomitant, a proliferation of errors. My view, which I have expressed previously, is that legislated proposals, whatever they may be, must be given the same thorough examination. The argument, too often heard, that a bill is but a "technical correction," should be treated as a warning, not welcomed as a reassurance.

Hustling bills through the process to avoid public input or public scrutiny is not acceptable, particularly as we are faced later with a need to deal with corrective measures, such as are contained in the bill before us today. Bluntly put, if we adopt and accept an abbreviated process, it is our own fault if errors, potential pitfalls or other omissions go undetected and have to be corrected at a later date. It is not what a chamber of sober second thought should allow itself to be reduced to.

My concern is not with providing access to these benefits to retiring parliamentarians who are not yet eligible for a pension. Everyone wants enhanced and guaranteed benefits, but the only difference between parliamentarians and others is that we are the ones who make the decisions. Our decisions are subject to public criticism, and our colleagues in the other place may find themselves in the proverbial hot seat should they gauge public sentiments incorrectly.

My concern lies with the process being followed, specifically with whether or not the public to whom Parliament is accountable has been sufficiently engaged in the discussions. My concern lies with whether or not the costs, both short and long term, have been properly assessed or even considered. My concern lies with whether or not better mechanisms may not be available, and whether or not such mechanisms have been sufficiently explored as alternatives to a general extension of benefits.

A significant impetus of this bill seems to lie in the circumstances of one individual parliamentarian in the other place who is not standing for re-election due to serious medical concerns.

There is an aphorism of long standing which is applicable here, and I will quote an entire passage from a dissenting opinion of Oliver Wendell Holmes, Jr., from the 1904 decision of the U.S. Supreme Court, called *Northern Securities Company v. United States*, and I quote:

Great cases, like hard cases, make bad law. For great cases are called great, not by reason of their real importance in shaping the law of the future, but because of some accident of immediate overwhelming interest which appeals to the feelings and distorts the judgment. These immediate interests exercise a kind of hydraulic pressure which makes what previously was clear seem doubtful, and before which even well settled principles of law will bend.

I think this covers, in large measure, the situation which we face today. We all have a natural interest and a great sympathy for one of our number who is facing great uncertainties. It is certainly in our power to offer a modicum of relief, be it ever so temporary and ever so modest, through the extension of benefits as provided in this bill; but hard cases make bad law.

Perhaps it was because of this that Bill C-24 has been portrayed as being a mere correction of an oversight, an effort to give to parliamentarians the same benefits available to civil servants. The fact is that it does not correct an oversight on the issue of extending benefits to retiring parliamentarians aged between 50 and 55. The benefits are not available to civil servants on the same terms as those offered to retiring parliamentarians by this bill.

I will quote at length from the testimony before the Standing Senate Committee on National Finance from Mr. John Gordon, national executive vice-president of the Public Service Alliance of Canada:

PSAC members and others federal workers are prohibited from participating in the PSHCP, the public service health care plan and other plans unless they are in receipt of a benefit under the Public Service Superannuation Act. In short, the members of the House of Commons have voted a benefit for themselves and for senators that is quite simply not available to other workers under federal jurisdiction and who are paid by the federal government and its various departments and agencies.

The difference is that the Members of Parliament Retiring Allowances Act does not provide an option for former members of Parliament to receive a retirement allowance until age 55, while the Public Service Superannuation Act provides the opportunity to receive significantly reduced benefits at an earlier age in certain circumstances.

I will quickly run through the provisions that apply to members of the PSAC and others who are subject to the Public Service Superannuation Act. Other than cases involving total disability of employees who opt for medical treatment, the earliest a PSAC member is eligible to collect an unreduced pension benefit is age 55. To retire at this age, the worker is required to have banked at least 30 years of pensionable service. At that time, federal workers are eligible to participate in the public service health care plan and the public service dental care plan as retirees.

While retirement at age 50 is possible under the Public Service Superannuation Act, workers can only choose this option if they agree to a pension reduction. The pension reduction for workers with less than 25 years of pensionable service is 5 per cent for each year the retirement commences prior to the age of 60. For example, a federal worker who retires at age 50 after 24 years of service would see his or her pension reduced by fully 50 per cent in dollar terms. A federal worker with this age and service profile, and with an average salary for superannuation purposes of \$40,000, would receive a pension of \$9,600 instead of \$19,200.

Mr. Gordon continued, because we have been told — and that is why I am emphasizing his statement before us — that what we are doing is putting parliamentarians on the same basis as civil servants. He continues:

The pension reduction for federal workers who have at least 25 years of pensionable service on termination of employment after age 50 are subject to a pension reduction of 5 per cent per year of the greater of: the number of years of age less than 55 or the number of years of pensionable service less than 30 years. For example, a federal worker with 26 years of service who retires at age 50 will have his or her pension reduced by 25 per cent.

• (2120)

To put this into perspective, the PSAC members other public sector workers over the age of 50 who decide to retire early or whose employment is terminated find themselves in a difficult quandary. They can elect to access their pension early and be subject to a severe pension reduction that, in many cases, will mean a post-retirement life of abject poverty but with a medical benefit that they so desperately need; or they can defer their pension to either 55 or 60, depending on years of service, and receive an unreduced pension but be denied medical or dental coverage until that pension is received.

Bill C-24 also provides members of Parliament with an added benefit in respect of group insurance when compared to other federal workers. Under Bill C-24, insurance is provided to former members of Parliament who were age 50 when they left office on the same terms and conditions as apply to persons in receipt of an allowance, other than a withdrawal allowance under the act.

In contrast, federal workers who leave their employment in similar circumstances and are not in receipt of an immediate pension benefit under the Public Service Superannuation Act can only maintain life insurance coverage under the supplementary death benefit plan at significantly higher commercial premium rates. Furthermore, the Public Service Alliance of Canada would bring to the committee's attention the many thousands of PSAC members whose positions have been divested to the private sector over the past several years and have no access to post-retirement health, dental or life insurance coverage from their successor employers.

As I said at the outset, the PSAC supports proposed legislation that would see federal workers, including all members of Parliament, have their supplementary health, dental and life insurance maintained when they are over the age 50 and eligible for a deferred retirement allowance or annuity.

There might have been a lot of posturing in this testimony, and many of us remember PSAC when we were in government, but still, I think their case is well put.

Contrast this with what the minister said in the other place at page 1459 of the *House of Commons Debates*. This is the minister speaking, supporting the bill:

With this legislation, all parliamentarians who are entitled to a pension will be able to get coverage under these medical plans beginning at age 50, just like public servants.

Other speakers during the very short debate over there echoed this sentiment, arguing that the bill is designed to bring parliamentarians to a par with civil servants, to eliminate an inadvertent loophole, to correct an anomaly.

Bill C-24 does no such thing. It creates new access to benefits in a manner not presently open to civil servants. It is not a correction of a loophole or an anomaly. Only those civil servants who are actually receiving a pension or an allowance are eligible for the benefits. Parliamentarians are now not eligible to receive either until age 55 and so are not eligible.

As the report of the committee noted, the proper corrective measure would be to, in fact, put parliamentarians on a par with the civil service by permitting them to accept a reduced pension beginning as early age 50. This is what the bill should have done; this is what this bill does not do.

By claiming that Bill C-24 is only trying to provide equal access to benefits already available to the civil service, the bill clearly opens the door to the civil service to seek parity if this bill passes. Having argued, in essence, the proverb that "sauce for the goose is

sauce for the gander," the government will be hard put to deny a similar claim by the civil service at the negotiating table. In fact, the Public Service Benefits Plan is up for renegotiation in less than one year, so the government will be faced with an unexpected demand based on a precedent of its own making.

Honourable senators, hard cases make for bad law. Trying to deal with a specific case through a law of general application is simply bad legislation. While sympathizing with what prompts this amendment, and in particular with the one person whose problem inspired it, I strongly feel that the solution before us is not only wrong but, if accepted, will identify Parliament as a self-serving entity to be exempted from the realities that Canadians as a whole face when the time comes for their retirement.

I urge that the government take the initiative and move that this bill be returned to the other place. I do know that if I move the same type of amendment, I would not get as far as I think most of us in this chamber feel we should.

On motion of Senator LeBreton, debate adjourned.

CANADA NATIONAL PARKS ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Austin, P.C., seconded by the Honourable Senator Rompkey, P.C., for the second reading of Bill C-28, to amend the Canada National Parks Act.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I indicated Thursday last that I would speak at second reading to Bill C-28, and I rise to do so now.

This is a very short bill amending the Canada National Parks Act to remove land from two of our national parks, the Pacific Rim National Park Reserve in British Columbia and the Riding Mountain National Park in Manitoba, to meet government commitments relating to Indian reserves. The circumstances driving these adjustments to each of the two parks in question are different in nature.

First, I turn to the proposed adjustments to the lands contained in Riding Mountain National Park. A specific land claim settlement agreement concluded in 1994 between Canada and the Keeseekoowenin Ojibway First Nation established Reserve 61A. Apparently, due to an error in the preparation of the legal description for the land removal, a five-hectare strip of land was omitted when this reserve was created. That land remained as part of Riding Mountain National Park, and Bill C-28 will rectify that mistake.

In the case of the lands this bill proposes to transfer from the Pacific Rim National Park Reserve of Canada to the Esowista Indian reserve, we must look back to the history and circumstances under which the reserve was created in 1970. At

that time, it was clear that the government would eventually have to re-evaluate the amount of space allotted, and only seven hectares were set aside for the Esowista reserve. The primary reason for the decision to postpone a final settlement of lands was a recognition that the Tla-o-qui-aht First Nation, which was to be settled in the Esowista reserve, was in the process of changing from a seasonal fishing camp to a permanent residential community. The population growth that accompanied this change led to serious problems with water quality, sewage disposal, overcrowding and critical infrastructure problems on the reserve.

So it is that some 30 years later, the Government of Canada is acting on the knowledge it has had from the outset that a larger site for the Esowista reserve would eventually be required to meet the needs of the community. With the proposal in Bill C-28 to transfer the additional 86.4 hectares from the park to the reserve, the government is moving to address this issue.

From what I have been able to ascertain from the range of discussions and consultations which have taken place during the course of the passage of this bill from the other place to this chamber, including the Honourable Senator Austin's comments last week, the bill has the support of key stakeholders, NGOs and provincial governments.

Parks Canada has taken the position that the measures in this bill have been considered in a manner respectful of the ecological integrity of both national parks in question. It is on this latter point that I should like to take a moment and seek the indulgence of the chamber.

While we are being asked to support this bill to enable appropriate land adjustments to be made to Aboriginal reserves that share borders with two important national parks, it is appropriate that we use this opportunity to take stock of precisely where the government stands on the issues of ecological integrity and the maintenance of Canada's heritage sites and parks. In this context, I would note that the government's inability to adequately protect the ecological integrity of existing national parks has been flagged not only by Canada's Auditor General but also by Canada's Commissioner of the Environment and Sustainable Development and by the Federal Panel on the Ecological Integrity of Canada's National Parks.

• (2130)

These criticisms deviate somewhat from the official government line on national parks. According to the propaganda being circulated by those in the government, national parks have been one of the strongest legacy items for the Martin-Chrétien government. What this self-serving rhetoric ignores is the Liberal record of reduced spending and effort on the environment, national parks, and particularly the maintenance of national historic sites.

The Martin-Chrétien government would have us believe that the simple act of creating new national parks and marine reserves is sufficient to establish and nurture an effective environmental legacy. Unfortunately, setting these areas aside is only the first

step. Perhaps a study needs to be done on whether the amount of land that has been set aside for national parks purposes is sufficient.

As I listened to Senator Austin last week, I reflected as to whether or not, as a principle of public policy, we should have a policy that when lands are taken for legitimate purposes from national park holdings to be assigned for whatever purpose — and in this case for Indian reserves — there should be a principle that an equal amount of Crown lands will be transferred, perhaps by an inflation factor, to the national parks portfolio. We have a great deal of federal Crown lands. Perhaps to ensure that there is no erosion of the land base in our national parks system, a public policy like that should be enshrined.

Let us look at the lands we do have in the system and how well they have been husbanded by this government. It is primarily in the subsequent and consequent work that we see the true level of commitment to the preservation of our great natural and national heritage.

In the context of the National Capital Commission, we have seen the erosion of the Moffatt farmlands in the National Capital Region for commercial development. Many members of this chamber have been involved in that particular file. Unfortunately, we will still lose to the federal holding some of the Moffatt farm.

Where this government has failed is in the focus on details, on implementation measures, on effectively targeting funding and follow-up work that is so essential to promoting ecological integrity of historic sites and resources. Very often those who are managing these sites are not managing at the level that is sensitive enough to ecological considerations. When one examines the details of how some of our parks have been managed and how the infrastructures have been neglected, we can come to the conclusion that this government's commitment to a healthy and vibrant national parks system leaves much to be desired.

Verification and documentation, honourable senators, of these problems come directly from Canada's Commissioner of the Environment and Sustainable Development. In her report of 2002, she stated:

More than three-quarters of Canada's national parks... are reportedly suffering significant to severe ecological stress.

That is found on page 7 of her 2002 report.

That is, 75 per cent of our national parks are in dire straits. For a government that seeks to claim the national parks as a part of its legacy, this could properly be described as a disgrace and as another waste area.

Furthermore, in chapter 31 of a 1996 report, the Auditor General stated that for many national parks, ecological standards are not monitored on a regular and continuing basis. In the same report, the Auditor General expressed concerns that management plans for many parks appeared to emphasize social and economic factors over ecological factors.

Where does this lead us in assessing the state of this government's record on the environment and our national parks? According to the Commissioner of the Environment and Sustainable Development, it has led to a state where, in addition to other environmental failings of this government, Canada has a severe "environmental and sustainable development deficit."

The Martin-Chrétien Liberals would like to have it otherwise. They prefer to hide behind grand gestures and lyrical pronouncements in the Speech from the Throne. Meanwhile, at the hands-on level, the follow-up work, implementation measures and details of actually getting it right on the environment fall through the cracks of the government and, unfortunately, a fair degree of bureaucratic inertia.

Returning to the Riding Mountain National Park, which is part of the subject-matter of the bill before us, there are a number of internal and external threats to its ecological integrity that require management and monitoring on an ongoing basis. These factors include: limited landfill sites for park refuse; the impact of major roads on wildlife and the effects of salting on vegetation; the impact of fertilizers and pesticides used in service centres and golf courses on streams and water resources; the fact that the park's hydroelectric corridor fragments the habitat of the area; poaching and hunting pressure on wildlife populations along park boundaries; resort development around park boundaries that also entails the introduction of exotic plant species and noxious weeds from agricultural activities and ornamentals from cottage development; and, finally, the impact of wind-blown chemicals on park resources.

Honourable senators, these points provide a very specific micro-illustration of what addressing ecological integrity in our national parks entails. Each national park has its own set of ecological integrity issues. How successful has the current government been at staying on top of these ecological integrity issues? While this subject is not my field of expertise, it is the field of expertise of the Commissioner of the Environment and Sustainable Development. If we are to go by the commissioner's conclusion that more than three-quarters of Canada's national parks are suffering significant to severe ecological stress, this government has been getting it right less than 25 per cent of the time. That is a shameful legacy, one that will have lasting consequences, but the problem does not end there. There is also the matter of federal conservation efforts on national historic sites, including those within the boundaries of our national parks.

In her November 2003 report, The Auditor General pointed out that conservation needs with respect to heritage sites and resources have increased rapidly. Twenty per cent of all built cultural resources located on national historic sites and in national parks are in poor condition and will require preservation work within the next two years. Another 40 per cent are in fair condition and need preservation work within the next three to five years. According to the Auditor General, these resources include buildings, bridges, fortifications,

maritime structures and lands. The Parks Canada agency has asserted that the protection of these national historic sites could require doubling the current amount of spending on these capital assets.

• (2140)

In the face of these increased funding requirements comes the fact that the government has slashed spending on historic parks and sites and other heritage resources. According to Statistics Canada, in 2000-01, federal departments and agencies spent about \$14 million less on heritage resources than in 1990-91, or 6 per cent less. In constant 1990-91 dollars, this equates to a decrease of 22 per cent, with inflation having reduced the value of the expenditures by an additional 16 per cent.

Honourable senators, a renewed focus on the maintenance of national historic sites, including those within our national parks, is required. It will require vigilance. It will also require new and better focused funding to get the job done. A new government — a Conservative government — would ensure that this would happen.

I believe that the bill before us is supportable in principle. There are a number of larger issues with respect to the state of our national parks and historic sites. I want to use this occasion to underscore but some of them. As legislators, we have a duty to ensure that the government does not lose sight of their importance. These issues, the ecological integrity of our national parks and the effective maintenance of Canada's heritage sites, cross partisan boundaries. If national parks and historic sites are to be a legacy item, then let them be a genuine legacy, a legacy properly promoted, properly protected and properly preserved, and not just something to be trumpeted for narrow partisan purposes. Let them be a legacy for our children, our grandchildren and for all future generations.

The Hon. the Speaker: Are honourable senators ready for the question?

Some Hon. Senators: Question!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Austin, bill referred to the Standing Senate Committee on Energy, the Environment and Natural Resources.

PATENT ACT FOOD AND DRUGS ACT

BILL TO AMEND—SECOND READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Corbin, seconded by the Honourable Senator LaPierre, for the second reading of Bill C-9, to amend the Patent Act and the Food and Drugs Act (The Jean Chrétien Pledge to Africa).

Hon. Wilbert J. Keon: Honourable senators, Bill C-9 aims to make it easier for those in the developing world to access patented drugs at relatively low cost in instances where this would address serious public health problems. The bill enjoyed the support of all parties in the other place and, in a rare spirit of cooperation, the government accepted amendments from both the official opposition and the New Democratic Party.

The need to help fight AIDS in the developing world is the impetus behind this bill and, indeed, the statistics about this growing epidemic are alarming. Some 36 million people now live with AIDS, mainly in Africa. In some countries, such as South Africa, the infection rate runs as high as one in five. This disease has killed more than 20 million people and created 13 million orphans, many of whom are themselves infected. It is the fourth leading cause of death among adults in the world. Some 15,000 new victims are infected each and every day. To put this in perspective, it is equivalent to infecting a city larger than the entire Greater Toronto Area each and every year.

AIDS is a disease with no cure. I emphasize that: It is a disease with no cure. Drugs will not render its victims disease-free nor will they stop the spread of AIDS. I repeat: They will not stop the spread of AIDS. Rather, we are talking about treatment that will prolong and improve life. This presents a huge problem to society in the long term. A major disease with a very short life expectancy for those infected is now being converted to a chronic disease with the ongoing capability of infecting very large numbers of people.

The great tragedy is that AIDS is a preventable disease, but too little emphasis is being placed on its prevention. We must approach the problem in its entirety. This is not the only disease that continues to ravage the developing world. Tuberculosis and malaria are prime examples of others. Fortunately, these are both curable diseases.

I want to place a few observations on the record, beginning with some about the process in the other place. This bill, in its initial incarnation as Bill C-56, was rushed through the legislative drafting process at the last minute so that it could appear on the Order Paper as an initiative of the outgoing Prime Minister. Senator Corbin looked into that and commented on it in his speech the other night. There has also been some debate about it tonight. The official opposition in the other place was prepared to give the bill speedy passage. Unfortunately, last fall the bill was, for all intents and purposes, a draft.

The Globe and Mail put it this way on November 7, 2003:

Privately, government officials said the legislation needs some rewriting, and said they would promise pharmaceutical industry and development group stakeholders the bill would be ironed out in the committee stage of review in the Commons. "It's incomplete," one senior official said.

The Montreal Gazette also noted in November:

The government, meanwhile, seemed cool to the idea of passing the bill quickly, with several ministers saying it will take "two or three months" to establish a regulatory framework that satisfies the various stakeholders, who include Canada's pharmaceutical firms and several international aid organizations.... Government House Leader Don Boudria said the government was leery of trying to rush complicated legislation without submitting it to committee scrutiny.

Thus the government tabled an imperfect bill, and then prorogued the session. If Parliament had continued to sit into late November and early December, it could already be the law of the land.

The other place made several amendments to improve the bill. The most significant government amendment removed what is called the "right of first refusal". Very simply, under the bill as introduced, patent holders would have had the right of first refusal when a generic manufacturer proposed to export a drug to a qualifying country, a provision that arises from Canada's obligations under the Trade-Related Aspects of International Property Rights Agreement. The government came under heavy criticism that if generic manufacturers were to develop contracts that the patent holder would simply take from them, they would not invest time and money to do so.

An amendment was also passed expanding the list of eligible pharmaceuticals to include those that the World Health Organization has recognized as being essential to health needs, as well as other drugs that were flagged by witnesses before the Commons committee. However, there is concern about another government amendment to the original bill that will allow the Federal Court of Canada to review the grant of compulsory licences to generic drug manufacturers.

• (2150)

The government did accept an amendment from the official opposition in the other place that provides for a review of the licensing process after two years rather than three. If shipments of pharmaceuticals are being tied up by court proceedings, this review will flag the program much earlier and thus allow for an earlier response.

I do not doubt that in committee witnesses will suggest other amendments to improve the bill.

My second observation is that this bill must be a very limited exception to the way Canadian laws treat intellectual property, done under the auspices of the World Trade Organization in this case. It must not be the start of a process by which we abandon all protection for intellectual property. The potential here is, again, tremendous.

Honourable senators, just as copyright laws protect writers and other artists, patents provide inventors with time to benefit from their research and ideas before others may profit from their work. If little or nothing is gained from that research, then the research is not done or it is done somewhere else.

Our law must strike a balance between developing new drugs and treatments for Canadians affected with serious illnesses and providing those drugs to Canadians at affordable prices. This policy goal should apply to our international relief work as well.

As a member of the WTO, Canada must abide by the Trade-Related Aspects of Intellectual Property Rights Agreement. This agreement requires Canada to provide at least 20 years of protection for new pharmaceutical products. The Patent Act makes this a matter of law.

Most of the newer drugs used to treat AIDS and other serious diseases are still protected by patent, generating the returns that made these drugs possible in the first place. However, the price we pay here in Canada is beyond the means of most in the developing world and beyond the means of the aid agencies attempting to deliver those drugs.

Last August, the WTO agreed to let impoverished nations import generic copies of drugs to treat AIDS and other major diseases. Currently, a cocktail of the patented drugs used to fight AIDS can cost up to \$10,000 per year here in North America, while a generic copy would cost about \$300.

Canada's Patent Act currently does not allow the legal manufacture in Canada for export of a generic version of a medicine that has been patented here. Without the amendments in this bill, if a company were to manufacture a generic version, it could be charged with patent infringement and be held legally liable.

Canadian generic manufacturers have been lobbying for several years for changes that would allow them to export generic drugs to impoverished nations. They cite, for example, the attempt four years ago of the Canadian generic manufacturer Apotex to provide HIV/AIDS drugs to African countries at cost, with patent laws preventing the shipment.

At the same time, however, the brand name manufacturers will tell us that they are already selling a wide range of medications to the Third World at not-for-profit prices.

My third observation concerns the list of eligible countries. Bill C-9 sets out three separate lists of countries that qualify for access to lower-priced Canadian pharmaceuticals. Each schedule adds a further criterion.

The first list applies to the world's least developed countries. Examples of countries on this list include Afghanistan, Haiti, Rwanda and Uganda. For these countries, the manufacturer would have to provide notice that it would like to acquire a licence to produce the medicine for export.

The second list applies to countries such as Albania, Brazil, Cuba and India. In addition to the notice requirement set out for exports to the first list of countries, exports to these countries require an attestation that the drugs cannot be manufactured in the importing countries. Curiously, one of those countries, India, is itself a major drug manufacturer and cited, along with Brazil, as a major potential exporter of generic copies to the Third World.

The third list includes countries such as Israel, Poland, Kuwait, the United Arab Emirates and the Czech Republic. For these countries, in addition to the conditions set out on the second list, exports will be subject to an attestation that there is an emergency.

These lists will be subject to amendment through Order in Council.

While the lists appear to have been drawn up on the basis of various United Nations lists, it is puzzling as to who qualifies and who does not. Liechtenstein and the United Arab Emirates are far from being impoverished nations. Indeed, Liechtenstein is the richest country per capita in the world. However, the government initially rejected an opposition amendment to add East Timor in committee before changing its mind at report stage.

While this bill has been renamed the Jean Chrétien Pledge to Africa, the last time I looked, Liechtenstein was in Western Europe, not Africa, and is a very rich country. I look forward to the explanation in committee as to why it is on that second list where there does not even need to be an attestation that there is an emergency.

My final observation regards the practical reality of making this legislation work for the people in the Third World. Once Bill C-9 is law and the regulations are in place, there are significant logistical barriers to overcome for these drugs to reach those in need. Let us not kid ourselves. The cost of drugs is not the only barrier to treatment, as shipping drugs to Angola or Togo is not quite as simple as shipping them to Ancaster or Toronto. The challenges are many, beginning with a lack of basic infrastructure. There may not be a distribution network in place, and often there are insufficient medical personnel to supervise.

The complex cocktail of drugs required to treat AIDS can sometimes involve strict dietary rules, which Third World patients may not be able to follow because of food shortages, or which require large amounts of water that also may not be available.

At some points in our lives, many of us have received a prescription that had to be kept below room temperature. Now imagine keeping that medicine at the right temperature in the Sahara Desert, without benefit of the kitchen fridge.

Local military and political issues compound the problem of getting medicines to those who need them. In nations where bribery and corruption are a way of life, there is always the concern that medicines may be resold, long past their expiry date, somewhere else or diverted to another more profitable market when the shipment is out of our borders and hands. Senator Morin spoke about this at length the other night and I will not repeat it.

Honourable senators, we support this humanitarian initiative to help speed the delivery of much-needed medications to Third World countries that have been ravaged by public health emergencies such as tuberculosis, malaria and AIDS. We would also encourage the government to ensure that it works through agencies such as CIDA and non-government organizations to tackle the problems of distribution and administration in the recipient countries, and the prevention of AIDS.

Honourable senators, I support this bill fully, even though it has its foibles. My hope is that we see its passage before we adjourn for the summer.

Hon. Yves Morin: Honourable senators, I would like to congratulate Senator Keon on his excellent speech. He raised an important issue that has not yet been raised in committee or in the other place. That is the matter of generic drugs manufactured in Brazil and India. This is very important. The Clinton Foundation and the World Bank have already bought and exported generic drugs that are manufactured in India to Africa. The issue is that these drugs are very cheap, much cheaper than generic drugs manufactured in Canada. They are cheaper, of course, than those that are still under patent, but they are fairly expensive.

• (2200)

Even under the present bill, drugs cannot be sold at more than 25 per cent of their value in Canada. Even under that, they would be more expensive than drugs that are manufactured in both India and Brazil. Therefore, there is a problem. We are trying to be generous. While I realize that our standards for approval of drugs may be superior to other countries, I should like to have Senator Keon's comments on that.

Senator Keon: I am very much aware of this horrendous problem. Indeed, there are a number of Indian manufacturing companies with superb science behind them that are manufacturing generic drugs at a fraction of the cost that we can do it in Canada.

The other night, I raised with Senator Corbin the question of diversion. Senator Morin then addressed that question in his speech, so I did not go back there tonight.

This situation will become a huge problem; there is no question about that. Nonetheless, we will have to deal with it as we go along. However, I do not believe we can afford to hold up this bill because of it.

I do think the most serious problem here is with the manipulation of a disease that has the potential, within three or four years, of killing the corresponding population of Canada in a single year. We are manipulating the natural history of this disease with drugs. We will increase the number of carriers enormously because we are converting an acute disease with a very short life expectancy to a chronic disease with virtually an endless life expectancy if an affected person keeps taking the drugs. The transmission of the disease is not affected by taking drugs. Instead of having 15,000 new cases coming in each year, we could be faced with having 100,000 cases coming in on a global basis.

[Senator Keon]

Honourable senators, we must move forward and distribute the drugs. We would not withhold these drugs from anybody in Canada, America or Europe, so we should not be withholding them from the people of Africa. We must also accept our responsibility, get out our wallets, and implement necessary educational and medical programs to prevent this disease.

Hon. Senators: Hear, hear!

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, this is an important bill, one that we support, but we would like to see more Senate participation in certain aspects of its implementation. I had made a suggestion to the Leader of the Government and I am wondering whether he, with leave, could be part of the debate and tell us if he has any reply to that suggestion.

Hon. Jack Austin (Leader of the Government): Honourable senators, I had the opportunity a few moments ago to have a conversation with the Leader of the Government in the other place. I have had two such conversations since the proposal was made to this side by Senators Lynch-Staunton and Kinsella to put an amendment that could be sent in the bill to the other place.

Minister Saada advises me that, of the four days remaining of this week, before the Standing Order takes effect and the other place takes a break next week, he has two opposition days that are committed. Therefore, there is no House time that he can allow to debate an amendment.

Honourable senators, proposed section 21.18(1) suggests that there is no urgency because — and I quote:

The Minister and the Minister of Health shall establish, within three years after the day this section comes into force, an advisory committee...

We will have, as I have already said, an undertaking from Minister Robillard, the Minister of Industry, to agree on behalf of the government to amend the proposed section so that the Senate role will be equivalent to that of the House of Commons in 21.18(2). Proposed section 21.18(2) is an amendment that was put into the bill by a Conservative member of the other place and adopted by the House. It reads as follows:

The standing committee of the House of Commons that normally considers matters related to industry shall assess all candidates for appointment to the advisory committee and make recommendations to the Minister on the eligibility and qualifications of those candidates.

Regrettably, the Senate was not mentioned in the amendment proposed by the Conservative member. However, Minister Robillard has agreed that both the standing committee in the House of Commons and our standing committee will have an equal role when the opportunity arises for a bill on technical amendments to be presented in the next Parliament or session.

Senator Lynch-Staunton: Honourable senators, I have been here long enough to know that ministerial commitments are personal commitments, not permanent commitments. As much respect as I have for Minister Robillard, I fear the undertaking would not last for more than this Parliament.

I understand, from what the minister said, that any amendment we moved this week would be rejected out of hand by the other place because, somehow, they do not have any time to consider what we may suggest to them. Yes, the House of Commons is not sitting next week. However, the last time I checked the parliamentary calendar, they are scheduled to return the following week and to be here at least until June 24.

Can the Leader of the Government in the Senate explain why next week is so important that, during their absence, amendments or suggestions raised this week cannot be considered at their return?

Senator Austin: Honourable senators, I would be happy to answer the real question that lay behind the suggestion, which is to be answered as follows: Indeed, if we come back on May 25, there would be time to do a number of things. I have no doubt that we will have the opportunity to shape the amendment with the minister and in the next session of Parliament, if there is a next session of this Parliament, to complete her undertaking, which is proposed to be in writing to the committee and presented to this chamber. This is a serious undertaking on behalf of this government.

Honourable senators are as wise as I am, which does not mean, in the context of what I am about to say, terribly wise, because the media knows everything and we know very little. However, one might want to give some heed to what they write and what they say. They are not statistically right even half the time, as honourable senators know, but sometimes they can be right.

With apologies to Senator Munson — and if Senator Fairbairn were here, I would apologize to her, too, along with Senator Fraser, if she were here, and any other members of the media, part- or full-time, in any part of their career — there is an assumption abroad. Honourable senators will have to accept that the leadership on this side and this caucus should be appropriately cautious and take into account the indications and proceed with the government's business as best we can until we adjourn.

Senator Lynch-Staunton: Honourable senators, I must say that I am distressed at the way this place has been operating since September. We came back in September, got business underway, and then Parliament was prorogued in November because the Langevin Block did not want a certain report tabled, and all business — important business — came to an absolute halt.

• (2210)

We came back in early February and then we were under the gun again because we thought something would happen before Easter. Now we are back and we are under the gun for the third time. Week by week by week — you can giggle and laugh all you

want but that is not the way you should treat Parliament. Either we are a legislative body or we are not. Either we have the time to consider legislation or we do not.

We boast about our independence from the House of Commons, but we are becoming the handmaiden of the Langevin Block. That is all we have become. Do we want to be that? I for one do not.

We have offered the government tonight an amendment to Bill C-9, to bring it to the House of Commons, which, apparently, according to the minister, is quite willing to put the Senate on the same basis as the House of Commons in not a particularly important matter but as recognition of the importance of the house in the parliamentary system.

We were told by the minister — and I have great sympathy for his position — that the House leader there has said that they have two opposition days this week so they do not have time and that they will be going on a break next week. My reply to that, naive as it may be, is, what about the following week and the week after that? Stop playing games with this place. Have more respect for this place. Why should our work be determined by the whims of one person? That is what this is all about.

Frankly, I am distressed that we have been reduced to this. Day after day, we have to look at a poll, at the media, at Mike Duffy. We are told by them where we will be in the next few days. Why can we not determine our own work schedule? Why can we not tell someone out there: Just a moment; the Senate of Canada has work to do and it wants to do it properly without being obstructionist. Lord knows that this side has not been obstructionist as long as I have been Leader of the Opposition.

As Leader of the Opposition, I am pleading for recognition of the role of this place. I fear that what we have heard tonight has diminished that role considerably, and I certainly do not want to be a part of that.

Senator Austin: Honourable senators, I have considerable sympathy for the statements made by the Leader of the Opposition. This is a house of review. It is our job to carefully consider legislation. However, we also have a responsibility to the people of Canada to consider legislation that is important to their well-being. We must take into account such things as external events and the pressures of time and concern.

Honourable senators, none of the work we do is simple; none of it is easy. We have responsibilities that are sometimes exceedingly difficult to discharge. I must ask honourable senators to recognize that Bill C-3, Bill C-9 and Bill C-30 are extremely important bills, not just to the Government of Canada but to Canadians. In the case of Bill C-9, it is also important to millions of people in Africa who deserving of and extremely needy of the benefits of Bill C-9. I would ask senators to take all of that into consideration as the legislative agenda continues.

The Hon. the Speaker: Continuing debate. It is Senator Corbin's bill.

Senator Corbin: I will speak on second reading if no one else wishes to speak at this time.

On motion of Senator Lynch-Staunton, for Senator Di Nino, debate adjourned.

[Translation]

BUDGET IMPLEMENTATION BILL 2004

SECOND READING—DEBATE ADJOURNED

Hon. Pierrette Ringuette moved the second reading of Bill C-30, to implement certain provisions of the budget tabled in Parliament on March 23, 2004.

She said: Honourable senators, I have the honour of presenting, at second reading stage, Bill C-30, the Budget Implementation Act, 2004.

Before discussing the specific measures included in this bill, I think it would be useful to step back and consider this budget in a broader strategic context.

In its Speech from the Throne delivered in February 2004, the Government of Canada put forward an ambitious program to improve the level and the quality of life of all Canadians.

[English]

This new agenda is incurred by the principle of government living within its means. It applies to the resources that are available to the goal of giving Canadians greater means to advance their well-being by taking important new steps in key areas such as communities, learning, health care and innovation.

The 2004 Budget introduced important building blocks to support this critical national agenda. At the core of the 2004 Budget is the recognition that to achieve the fundamental goal of better lives for all Canadians, our social and economic policy must be mutually reinforcing. Central to the budget is that these policies must also be buttressed with the prudence of a balanced budget — in other words, of government living within its means.

In this vein, Budget 2004 contains the prudent fiscal planning that has been the cornerstone of Canada's economic track record in recent years. For the 2003-04 fiscal year, the government will record its seventh consecutive surplus with Canada as the only G7 nation not to run a deficit. We have achieved this despite the series of economic shocks, such as SARS and BSE, that beleaguered the Canadian economy last year. This record underscores why the budget maintains the yearly \$3 billion contingency reserve and rebuilds extra prudence for 2004-05 and 2005-06. We will continue to be ready to face the unexpected with fiscal confidence. Equally important, if the contingency reserve is not needed to cover any further unexpected fiscal shock, it will continue to go directly towards debt reduction.

I urge honourable senators to bear in mind that this approach has helped the government reduce the national debt by \$52 billion since it balanced the budget in 1997-98, which in turn has

delivered ongoing savings of \$3 billion a year in interest charges. This is money freed up for investing in health care, infrastructure and other important national priorities. That is why Budget 2004 aims to go further on debt reduction by setting the objective of lowering the debt-to-GDP ratio to 25 per cent in 10 years.

This is no abstract accounting goal. It means real future benefits for Canadians because a stronger financial position today positions us to better meet the needs of tomorrow. That is more important than ever if we are to meet the fiscal challenges of a greying population with fewer working-age people to fund social programs but with more seniors placing greater demand on those programs.

Honourable senators, let me now pull back from the future and turn to today's legislation and the specific measures in Bill C-30, measures that address Canadian's priorities of community, health care, learning and the environment.

Let us start with the proposal to provide full relief from the goods and services tax and the federal component of the harmonized sales tax for municipalities of all sizes. Let me explain why this measure is necessary. As we know, Canada's communities are the social and economic foundation of the country. Whatever their size, the communities in which Canadians choose to live have a significant bearing on their quality of life and the social and economic opportunities open to them.

• (2220)

Municipal leaders have pointed to the financial challenges that they face in trying to maintain and improve their economic and social strength. They consistently identify infrastructure as their most pressing priority. However, the challenges facing municipalities extend beyond the provision of physical infrastructure. Also under strain are the social programs and services that help Canadians participate in their communities, find employment and benefit from the opportunities around them.

Clearly, municipalities are facing increasing pressure to maintain and renew their infrastructure and ensure that necessary social programs are available to their residents. However, there is a general understanding that there are limits on the extent to which the property tax base, the single most important source of revenue for municipalities, can finance these spending pressures. In recognition of these challenges, the federal government is committing to forging a new deal for communities. The new deal will be a sustained, long-term effort to improve the living standards and quality of life of Canadians in cities and communities of all sizes.

The government's new deal for communities is designed to ensure that Canada's municipalities have reliable and predictable long-term funding by working with provincial and territorial governments and municipalities to provide more effective program support for pressing infrastructure and social priorities in communities; to help communities to acquire the best tools to pursue local solutions for local problems, and give municipalities a greater voice in shaping federal policies and programs that affect them.

Budget 2004 takes important first steps in building this new deal. A full rebate on the GST and the federal component of the HST, paid by municipalities across Canada in providing municipal infrastructure and community services, will be granted effective February 1, 2004. Bill C-30 also includes an amendment to facilitate an orderly transition to the full rebate, protect the integrity of the tax system and enhance transparency.

This relief measure advances the objectives of the new deal in three ways. First, the higher rebate represents an additional source of growing, reliable, long-term funding for all municipalities. Second, the increased rebate benefits municipalities of all sizes across Canada; and third, it provides a significant contribution for the funding of critical infrastructure priorities such as roads, modern transit and clean water. This increased rebate will provide municipalities with an estimated \$7 billion in additional revenues over the next 10 years. I repeat, \$7 billion over the next 10 years, including \$100 million for two months of 2003-04, \$580 million in 2004-05, and \$605 million in 2005-06. That, honourable senators, is real money for real needs in real time.

Next, Budget 2004 recognizes that investments in learning are also fundamental to a strong economy. We all recognize, I am sure, that learning produces a work force that is qualified to meet the demands of a growing economy and fosters advances in knowledge, the development of new technologies, new products and improved production processes. These, in turn, increase productivity, generate economic growth and promote our international competitiveness. In order to create, find and keep good jobs in the knowledge-based economy, Canadians will increasingly need to pursue learning opportunities both during their youth and as working adults later in life.

The federal government fully recognizes that support for learning starts with the birth of a child and extends well into adulthood. Over the years the government, in partnership with provincial and territorial governments, has developed a strong agenda in support of Canada's children. Budget 2004 builds on this commitment by increasing its support of early learning and child care, among other things. This national commitment is embodied in both the 2000 early childhood development agreement reached by first ministers and the 2003 multilateral framework on early learning and child care agreed to by federal, provincial and territorial ministers responsible for social services.

Bill C-30 accelerates implementation of this framework by increasing cash transfers to provinces and territories under the new Canada Social Transfer over the next two fiscal years by a total of \$150 million. This will represent an increase of \$75 million per year, this year and next, and bring total funding for early learning and child care to \$375 million over those two years. These resources could provide up to 48,000 new child care spaces, or up to 70,000 fully subsidized spaces for children from low-income families.

Moving on, further action to help strengthen our publicly funded health care system is also a key component of the government's new agenda and the 2004 budget. As honourable

senators know, the Prime Minister confirmed in January that provinces would receive \$2 billion in additional funding for health, bringing to \$36.8 billion federal funding provided in support of the 2003 first ministers accord on health care renewal. Events such as last year's SARS outbreak highlight the need for active responses to gaps in our public health system. The budget takes this action by providing funding to improve Canada's readiness to deal with public health emergencies and address immediate gaps.

Specifically, Bill C-30 authorizes \$400 million in payment to a trust to be provided to provinces and territories over three years, of which \$300 million is targeted for a national immunization strategy. This new funding will build on the \$45 million over five years provided for immunization in the 2003 budget. The \$300 million will support the introduction of new childhood and adolescent vaccines such as vaccines for chicken pox, meningitis, pneumonia and whooping cough proposed by the national advisory committee on immunization.

The remaining \$100 million will relieve stresses on provincial and territorial health care systems that were identified during the SARS outbreak, and help the provinces and territories address immediate gaps in their public health capacities by supporting front-line activities, specific health protection and disease prevention programs, information systems, laboratory capacity, training and emergency response capacity. As well, the budget takes measures to ensure that Canada's public health system has the information technology systems needed to deal with future public health outbreaks or epidemics.

Bill C-30 authorizes the payment of \$100 million to Canada Health Info Highway Inc. for its use to enable the provinces and territories to invest in software and hardware, with the goal of assessing, developing and implementing a high quality, real time public health surveillance system with a particular focus on infectious disease monitoring. Through the measures in Bill C-30, Canada's public health system will have greater capacity and surveillance, diagnostic and response, along with improved information sharing, training and education and collaboration across jurisdictions.

Bill C-30 also addresses health care in learning through federal transfers made through the equalization program. Since its inception in 1957, the Canadian equalization program has played an important role in defining the Canadian federation.

• (2230)

Not all provinces in the federation are equally prosperous. The federal government makes equalization payments to the less prosperous provinces to allow them to provide their residents with public services that are reasonably comparable to those in other provinces at reasonably comparable levels of taxation. Provinces that receive these funds use them to help pay for the programs for which they have primary responsibility, including health care, education and social programs.

The program is reviewed and renewed every five years to ensure the integrity of the formula upon which payments are based. Bill C-30 renews the equalization program for five more years, from 2004-05 to 2008-09. As part of this renewal, the bill includes changes to maintain the integrity of the program and improve its operation. Such changes will provide more stable and predictable equalization payments and more accurate measures of fiscal capacity and tax bases. As a result of these changes, an estimated additional \$1.5 billion will be transferred to the equalization-receiving provinces over the next five years. Moreover, year over year, fluctuations in equalization payments will be significantly reduced.

As well, the bill contains provisions related to the offshore accords that allow Nova Scotia and Newfoundland to manage and tax offshore energy resources as if they were under provincial jurisdiction. Nova Scotia will receive a payment that approximates what it could have received if the equalization offset provision had started in 2000-01. The bill extends the deadline for Newfoundland and Labrador to choose either a generic solution established under the equalization program or the benefits of the accord, whichever the province prefers.

So far, I have focused on budget measures that deal directly with people and institutions, but the budget also recognizes that a clean and safe environment is fundamental to a healthy society and its sustainable economic growth. The government remains committed to ongoing support for the development and commercialization of environmental technologies that hold the promise of improving economic efficiency while contributing to a cleaner and healthier environment, for example, through a more efficient use of energy. These technologies will be fundamental to meeting our environmental goals, such as reducing greenhouse gas emissions to address climate change.

To promote better environmental stewardship for the future, the budget, through Bill C-30, invests \$200 million in the sustainable development technology foundation, bringing total federal funding to \$550 million. An arm's length, not-for-profit foundation, SDTC, is to further the development and demonstration of technologies that reduce greenhouse gas emissions and improve air quality.

The bill also broadens the mandate to include support for clean water and soil technologies. This will allow the foundation to deliver innovation technology solutions for sustainable development issues like climate change and clean air, water and soil.

Another measure in the bill builds on Canada's existing efforts to bring research discoveries to the marketplace by enhancing access to venture capital financing. In 2002, Farm Credit Canada launched a new business line, FCC Ventures, to provide venture capital financing for the agriculture and agri-food sector. Building on last year's initial investment of \$20 million over two years, this budget provides FCC with an additional \$20 million over two years to specifically provide venture capital financing for promising agriculture and agri-food companies. Bill C-30 amends the Farm Credit Canada Act to increase the statutory

limit on capital payments to allow for the future injection of capital in FCC.

I have covered a lot of ground because this is important and far-reaching legislation. Before concluding, I should highlight the fact that Bill C-30 also includes several other measures of importance to Canadians. It clarifies the rules governing employers' contributions and refunds under CPP and reduces the burden of compliance on employers. When an employer is restructuring, employees are sometimes treated as if they had joined new employers, even though their jobs remain unchanged. In these cases, the successor employer has to make contributions for the same employees a second time in the same year. Now, through Bill C-30, employers who undergo a change in business structure will not have to pay contributions twice for the same employees.

To further reduce the burden of compliance on employers undergoing business restructuring, the bill also amends the Employment Insurance Act with respect to EI premiums in the event of business restructuring.

A third measure takes action to ensure that persons with disabilities are not penalized when they decide to re-enter the workforce. Currently, recipients of CPP disability benefits who attempt to return to work but abandon their efforts because of difficulties in overcoming their disability are required to reapply for disability benefits. The delays and uncertainty associated with the need to reapply can discourage individuals from returning to work. Accordingly, this bill allows for the reinstatement of disability benefits if a former recipient ceases working for reasons related to his or her disability within two years of returning to work.

A fourth measure gives the Governor in Council the authority to set the EI premium rate for 2005 to ensure against the risk that legislation implementing a new rate-setting mechanism is not passed in time to set the rate for next year.

Finally, in response to a Supreme Court of Canada decision, Bill C-30 establishes a 10-year limitation period for the collection of federal tax debt under the Air Travellers Security Charge Act, the Excise Act, the Excise Act 2001, and the Income Tax Act, effective March 4, 2004. The bill also provides that taxes that were unpaid on March 4, 2004, will be subject to a new 10-year limitation period as of that date, and taxes collected before March 4, 2004 but after the expiry of an application limitation period will not be reimbursed. These measures will prevent late payers from gaining a windfall benefit.

Honourable senators, it is clear from these measures that Budget 2004 delivers vital, sometimes visionary, action for tomorrow, while maintaining the government's commitment to prudent fiscal planning for balanced budgets. The measures in Bill C-30 ensure that we can help Canadians enhance the well-being of their families while still living within our means. Surely this is an objective that serves the fundamental purpose of this place and government overall, so I have no hesitation in urging all honourable senators to pass this bill without delay.

[Translation]

Hon. John Lynch-Staunton (Leader of the Opposition): Would Senator Ringuette entertain a few questions?

Senator Ringuette: Certainly.

Senator Lynch-Staunton: Could the honourable senator explain to us the government's accounting system? If I am not mistaken, we are dealing with the 2004-05 fiscal year, but the bill includes an amount of \$620 million that would be allocated to the year 2003-04. How can she explain what seems to me to be a contradiction? We are being asked to approve monies for the current year, but some amounts are allocated to a previous fiscal year?

• (2240)

Senator Lynch-Staunton: My second question relates to the fact that one of the main points in the honourable senator's presentation was that the GST rebate to municipalities came into effect on the first of February. What exactly is a municipality in this context? Only the major cities, or incorporated municipalities, townships, regions, villages? What is the formula?

What are the payment dates? A total of \$580 million will go back to the municipalities for the calendar year. I would like to know whether my small municipality — not incorporated, though the township is — or other municipal incorporations of the same kind will also have the advantage of these rebates, or will they go only to large cities and municipalities better known than mine?

Senator Ringuette: I thank Senator Lynch-Staunton for his question. The GST rebates go to incorporated municipalities. The provinces are the ones responsible for incorporating these municipalities, these geographical areas. All that the federal government has said is that a portion of the GST has already gone to the municipalities. So, if his township is incorporated, it has already got a certain percentage of GST credit, and now the rebate will be on the whole amount.

Senator Lynch-Staunton: I am going to ask that question before the committee and the official witnesses.

There is one last question I would like to ask. In the case you referred to, Canada Health Infoway, there will be a credit of a payment of \$100 million this year, but it will show in the government books as being for the previous fiscal year. On the other hand, the \$200 million for the Canada Foundation for Sustainable Development Technology will be credited in the year the payment is made.

There are two payments, to different bodies, but made at about the same time. Yet one will be debited — this is not the proper accounting term — in fiscal 2003-04, while the other will be debited in 2004-05, though paid at about the same time.

What needs to be known is who decides what, and why.

Senator Ringuette: Honourable senators, this question involves a technical detail of an administrative nature that would be better dealt with during committee hearings.

[English]

Hon. Donald H. Oliver: Honourable senators, I have a question for the honourable senator. As the honourable senator will know, since she is a member of the National Finance Committee, for the last few weeks the committee has heard from a number of ministers of finance from the provinces of Canada who have come to Ottawa to give testimony and evidence about the fiscal equalization formula that is in place. She will know that finance ministers from Saskatchewan, Newfoundland and other provinces have complained that the existing formula is unfair, creates hardships, and is punitive and unjust. A number of witnesses who appeared before the committee have asked for the re-implementation of a national standard to equalize the opportunity so that each of the provinces could live up to the mandate from the Constitution of Canada for which the equalization formula was devised.

My question is that the first 10 pages of Bill C-30 deal with equalization. Would the honourable senator tell me where in these pages is the need and request for a national standard to equalize the fiscal equalization formula set forth?

Senator Ringuette: The honourable senator is also an active member of the Finance Committee. He will certainly know that we are speaking about comparable levels of service for comparable levels of taxation in regard to the equalization process. Under that formula, there are 33 different items that have been established through the years. This program has been established for more than 50 years. There is much history here.

I am well aware of the different demands that certain provincial finance ministers have been making. In the last five years, I remind honourable senators that there were 48 different meetings of federal-provincial finance ministers to discuss this issue. Some provinces have requested that the formula be changed from five base provinces to 10 base provinces. I remind the honourable senator that I asked one of the ministers of finance who appeared before us what he would say if there were the same amount of money in the program and if the federal government were to say to all of the provincial finance ministers that if they are not happy with the current formula, to devise a formula that would be just and fair for all. His response was, "No, thank you. It would be too divisive."

Senator Oliver: The honourable senator, when giving her discourse on what is in this particular Budget Implementation 2004 Bill, mentioned agriculture, which is of particular interest. Her comment on agriculture was that last year there was an amount of \$20 million set aside for a venture capital fund for new and exciting ventures in the agricultural sector. She further said, as I recall, that again in this year's budget there was another \$20 million set aside for venture capital financing. However, she did not deal with the more important, substantive section, clause 28, found on page 22 of the bill that deals with the government apparently taking more control of the Farm Credit Canada Act.

Would the honourable senator explain what is behind the request to pay the corporation out of the Consolidated Revenue Fund amounts not exceeding the aggregate of \$1.25 billion?

Senator Ringuette: Honourable senators, this is a technical request. As the honourable senator is Chair of our Agriculture and Forestry Committee, I will endeavour to supply him with a written answer to that question.

On motion of Senator Oliver, debate adjourned.

• (2250)

PUBLIC SERVICE COMMISSION

APPOINTMENT OF MARIA BARRADOS AS PRESIDENT OF THE PUBLIC SERVICE COMMISSION—REPORT OF NATIONAL FINANCE COMMITTEE ADOPTED

The Senate proceeded to consideration of the eighth report of the Standing Senate Committee on National Finance (appointment of the President of the Public Service Commission) presented in the Senate on May 6, 2004.

Hon. Lowell Murray moved the adoption of the report.

He said: Honourable senators, the study of the precedents indicates that if this report is adopted by the Senate, it will have the effect of approving the appointment of Dr. Maria Barrados as President of the Public Service Commission. For the benefit of honourable senators, there are available from the pages copies of the unedited transcript of the committee's meeting of last Wednesday night.

We had a good meeting on Wednesday night. We convened the nominee, Madam Barrados, who has been Acting President of the Public Service Commission since last November. We had with us the President of the Privy Council, Mr. Coderre.

Members of the committee took the opportunity to raise several issues which, while they may or may not have been immediately related to this motion, are of importance to the morale and efficiency of the public service and, therefore, to good governance in this country.

Senator Lynch-Staunton raised the adequacy or otherwise of the whistle-blowing legislation that the government has tabled or, perhaps I should say, by most accounts, the inadequacy of that legislation. While there was an exchange on the matter between himself and the minister, I think it is obvious that, unlike some of the legislation that is before us now, the government will have world enough in time to revise or repent of this legislation since it is unlikely that it will get very far before an expected dissolution of this Parliament in the next little while.

Senator Ringuette, Senator Lynch-Staunton and others discussed the question of national areas of selection, the need to do away with geographical restrictions for hiring in the public service, and other senators raised other questions. I am indulging a bit, because it is a question I raised with the minister when he was there, and with the official, Madam Boudrias, who was with him.

There seems to be some confusion surrounding an announcement made on the day of the swearing in of the Martin government in November concerning proposed changes in ministerial responsibilities as they affect the public service. There was created a new human resources management organization, which transfers responsibilities from the Treasury Board to the President of the Privy Council. That seems to be underway; at least, Mr. Coderre and Madam Boudrias told us it is.

It was also announced on the day of the swearing in that the public service employer for collective bargaining services, which up to this point and for many years had been the Treasury Board, would henceforth be the Department of Public Works and Government Services. When I inquired, Madam Boudrias said that a decision has not been taken on that matter, and Mr. Coderre indicated that they were waiting for the present round of collective bargaining to be completed.

I must say that I thought the announcement on the day of the swearing in made the intentions of the government pretty clear. I am not sure that it lies with a public servant, even one accompanying a minister before a parliamentary committee, to tell us that a decision that was announced by the Prime Minister is not a decision. In any case, to say that some of this stuff is a work in progress is to put it kindly, and one need not be privy to all the gossip in town to know that there is confusion.

I simply make the point that a continuation of that kind of uncertainty and confusion in as important a matter as ministerial responsibility for the public service is bound to have a negative effect both on morale and good governance.

When Dr. Barrados appeared before us, one matter that arose was the question of the auditing function of the commission. This is extremely important, the more so since we passed the legislation last October that provides for even further delegation of commission responsibilities to deputy heads and below the rank of deputy head. Without a proper auditing capacity, the commission will be unable to monitor properly whether these delegated powers are being used properly and whether the merit principle, which is the core principle, is being fully respected.

I recall that when the committee was studying Bill C-25 last summer and fall, we had the then president of the commission, Mr. Serson, before us, who told us that 10 years previously there had been about 100 auditors at the commission. Since then, because of various cutbacks, financial constraints and whatnot, the number was down to seven or eight auditors. Dr. Barrados told us that she is determined to double that number quickly. In dialogue with Senators Oliver, Downe and Chaput at committee, she spoke about operating on a risk basis. When she or members of the commission discerned that there is a higher than usual risk at some particular department or agency, they would send the auditors in at that point. Of course, she has the ultimate sanction of taking back the delegated power and reminded us that that had been done with the Privacy Commission and, indeed, the delegated authority had not been restored to the Privacy Commission in the weeks and months since we received such disagreeable news about the operation of that agency.

With regard to the question of the elimination of geographic restrictions for hiring, as Dr. Barrados pointed out, this is a matter of technology. The commission needs the technology to be able to advertise all positions on a national basis. She told us — and I am paraphrasing, but I think accurately — that we have the money, but the commission has spent four months going through the hoops at Treasury Board to try to get their approval of the purposes to which the money will be put.

This raises again the general question of the budgetary process as it affects officers of Parliament, or officers who report directly to Parliament and not to a minister. It is the case with the Auditor General; it is the case with the President of the Public Service Commission; it is the case for some others — perhaps the Chairman of the Human Rights Commission, perhaps the Commissioner of Official Languages, perhaps the Privacy Commissioner and the Information Commissioner. We know who they are.

These people should not have to go hat in hand to the Treasury Board to get their budgets approved. There should be some way for the two Houses of Parliament to have a key involvement in that process. This subject has come up again and again in almost all the years I have been here. However, I must say that if we are waiting for this government, or any government of any stripe, to provide a satisfactory process that will take some of the power away from them and their committees and give more of it to Parliament, we will be waiting forever. It is incumbent upon us to try to design a process that makes sense and that will work, and try to impose it on the executive government of the country.

• (2300)

There was a discussion of the makeup of the commission. The law that we passed in October provides that there will be a full-time president of the commission with a mandate of seven years and at least two part-time commissioners. These part-time commissioners will not be subject to Parliamentary approval. They will be appointed by Order in Council only, which raises the danger that there will be partisan appointments or other inappropriate appointments to that commission. That is real problem.

There are two points here. Senator Lynch-Staunton pointed out that some of the decisions will have to be made by the commission as a whole and, therefore, she, the president, will be outvoted by the other two, which underlines the necessity of care, caution and due diligence in recruiting and appointing the two part-time commissioners. She has told us that she has an undertaking from the present government that she will be consulted before any Order in Council appointments of that kind are made, which is good as far as it goes and as long as it lasts; but it is something that will bear watching by the Senate.

It is also clear that we are finished, at least for the time being, with the revolving door we have had there for too many years. The intent of Parliament was that the chair and members of the commission would serve quite long mandates — 10 years under the old law. It must be twenty years since there was a president who completed his full mandate. The practice has been a

revolving door in which chairs and other members of the commission come from the ranks of the senior bureaucracy and return there. That is not the way the commission is supposed to function. I am happy to note that Dr. Barrados told us that, at her age and state, she is not looking for another job. She will be glad to fill at least one mandate as president of the commission.

In terms of any problems that might arise with the other commissioners or in any case, she said, and I will give honourable senators a direct quote:

I feel that where I am in my career, and how strongly I believe in some of those things, that if I ever felt that I was being compromised in this fashion, I would be calling the chair of the parliamentary committees to come and speak to you.

That is a worthwhile assurance from the president that I am glad to place on the record.

Another matter that was alluded to indirectly concerns the fact that the commission has limited, if any, power over some of the agencies that Parliament in its wisdom separated out from our oversight some years ago. I refer not just to Parks Canada but to the Canada Customs and Revenue Agency. These are no longer part of the core Public Service of Canada. The commission has rather limited power or authority over them, which is something that will continue to bear watching from the point of view of the Senate.

Honourable senators, I think I can speak for the committee and say that Dr. Barrados made an excellent impression on all of us. We have known her for a while. She was previously in the Auditor General's office. She clearly has a very good grasp of what her responsibilities will be as president of this commission, and a very strong commitment, even a dedication, to the values of a non-partisan, merit-based public service.

I am happy, and I think the committee is happy, to recommend that the Senate approve her appointment. I hope we will not only approve her appointment and but also support her in her important work in the months and years ahead.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Will the honourable senator take a question or two for clarification?

The Hon. the Speaker: It is not a problem, but Senator Murray's time has expired.

Does Senator Murray wish additional time?

Senator Murray: Yes.

The Hon. the Speaker: Honourable senators, is it agreed?

Hon. Senators: Agreed.

Senator Kinsella: I have several quick points, honourable senators.

It is clear in Senator Murray's presentation and also as one reads the transcript from the committee that Dr. Barrados embraces the merit principle and sees that it is the heart and soul of a professional public service.

I was, as I suspect were other honourable senators, brought to sit up erect in my chair. It did not come to mind when we were examining the bill. The person that we are approving in this process reports directly to Parliament, but her decisions can be overridden by other members who would be appointed under the part-time appointment provisions of the act, as I saw on page 19 of the transcript that I have, where Senator Murray just a few moments ago alluded to Senator Lynch-Staunton's questioning of Dr. Barrados. How does Senator Murray see that process working in practice if there are two part-time members? We have had a commission of three members. I should think that the government would move quickly to have at least two part-time members in addition to the chair. Do those part-time members have half a vote or a full vote? How serious is the possibility of the commission being appointed on a partisan basis through the part-time appointment process and overriding the Public Service Commissioner approved by Parliament?

Senator Murray: Honourable senators, in answer to that question, I should probably place on the record what Dr. Barrados said about the authority she will have as president to do things on her own. I think I can say that those would be mostly administrative things. Then she says:

Any of those strategic directions for how we do the delegation agreements, what kinds of things we are delegating, how we define political activity in the process we put in place, our audit plan, are the kinds of things that should go to the commission. Any of the regulatory areas have to go to the commission.

I take it from that response that to have a decision made on those matters would require a consensus of the commission. There is no suggestion that the part-timers would have anything less than one vote each on those matters.

This is probably one of the reasons why the president has insisted, and the government has agreed, that she be consulted in the recruitment and appointment of the part-time commissioners, and why she has given us the assurance that if in any way her position is compromised in the process, that she would be calling the chairman of one or the other of the parliamentary committees to come to report to us that this is going on.

• (2310)

Senator Kinsella: The other question was with respect to the relationship to the experience, and again Senator Murray underscored it. In the past, deputy ministers or assistant ministers were appointed to membership on the old admission, and two or three years later they would go back to a line department or agency.

Can that still happen with the part-time members? That is, they would be appointed from the public service and, after a period of time, go back into the public service?

Senator Murray: I know nothing that would prevent that happening, honourable senators.

Senator Kinsella: My final question is this: In your discussions with Dr. Barrados, did she express a view as to the importance of whistle-blowing legislation in general? More particularly, one of the models for effective whistle-blowing machinery would be to have the whistle-blowing commissioner become one of the commissioners of the Public Service Commission. Did she express her view on any of that?

Senator Murray: That specific aspect, I can say with certainty, did not come up. I stand to be corrected but my recollection concerning the discussion about the whistle-blowing legislation was held during Mr. Coderre's testimony before the committee.

Senator Rompkey: Question!

The Hon. the Speaker: Honourable senators, it was moved by the Honourable Senator Murray, seconded by the Honourable Senator Spivak, that this report be adopted now.

Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and report adopted.

BUSINESS OF THE SENATE

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, might we have agreement from both sides of the chamber, and by any other independent people who happen to be here, to stand all other items on the Order Paper in their order until the next sitting of the Senate?

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

The Senate adjourned until tomorrow at 2 p.m.

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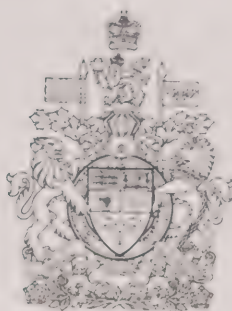
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(HANSARD)

Tuesday, May 11, 2004

THE HONOURABLE DAN HAYS
SPEAKER



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THE SENATE

Tuesday, May 11, 2004

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

VISIT OF DALAI LAMA

Hon. Consiglio Di Nino: Honourable senators, for 17 days this past month, Canada played host to a truly amazing man. Tenzin Gyatso, known to most as the Dalai Lama, came to Canada to spread his message of non-violence, compassion, moral responsibility and respect for the fundamental rights and freedoms of all the world's people. His message left those of us who heard him speak with much to reflect upon.

Tenzin Gyatso, a simple Buddhist monk, is a Nobel Prize winner, a spiritual giant and one of the world's truly remarkable envoys of peace, tolerance and understanding. Yet he is a refugee, forced to flee from his homeland that suffers beneath the weight of the Chinese government's brutal oppression and its policy of population transfer. Since the invasion of Tibet in 1950, the Tibetan people and their land have suffered unspeakable atrocities. Despite this, His Holiness harbours no hatred. He preaches understanding; he forgives and insists on non-violent resolutions to even the most horrific conflicts.

In describing the purpose of his visit to Canada, His Holiness expressed that his hope was to "contribute to the flowering of the seed of kindness that, though inherent in all human beings, needs nurturing" in order to "bring about positive change in the world, making it more caring, more compassionate, and, by extension, more just and equitable."

His Holiness the Dalai Lama carries on his shoulders the burden of finding the solution to the Tibet issue for his people and his homeland. He says:

As a Buddhist I take refuge in Buddha; as a Tibetan I take refuge in international support.

During his visit, Prime Minister Martin showed leadership, parliamentarians on all political sides gave strong support, and Canadians showered him with praise and respect wherever he went.

Honourable senators, let us assure him of our friendship, our support and our best wishes and commit to helping him keep the flame of hope burning.

To His Holiness, I say thank you for your visit and your inspiration.

Hon. Senators: Hear, hear!

CURLING

WORLD CHAMPIONSHIPS IN GAVLE, SWEDEN— CONGRATULATIONS TO WOMEN'S GOLD MEDAL AND MEN'S BRONZE MEDAL WINNERS

Hon. Wilfred P. Moore: Honourable senators, on April 1, I informed you of the national success achieved by three Nova Scotian curling teams and extended good wishes to two of them. Those two were the Colleen Jones rink and the Mark Dacey rink, both of the Mayflower Curling Club in Halifax, both of whom were representing Canada in the World Curling Championships at Gavle, Sweden.

I am delighted to report that the rink skipped by Colleen Jones won its second world women's title with an 8-4 victory over Norway on Saturday, April 24. We congratulate Colleen and her team of Kim Kelly, third, Mary Ann Arsenault, second, Nancy Delahunt, lead, Mary Sue Radford, spare, and Ken Bagnell, coach.

We also congratulate Mark and his team of Bruce Lohnes, third, Rob Harris, second, Andrew Gibson, lead, and Matthew Harris, spare. This talented rink won the men's bronze medal with a 9-3 victory over Norway on Sunday, April 25. It should be noted that the Dacey rink had a perfect 10-0 record in the round robin section of this championship.

We salute these two rinks for their accomplishments, and we thank them for the honours that they have brought to Canada.

CONTRIBUTION TO WORLD HEALTH ORGANIZATION HIV/AIDS INITIATIVE

Hon. Yves Morin: Honourable senators, I would like to recognize this afternoon the remarkable contribution of the Canadian government to the World Health Organization's AIDS initiative. In a speech yesterday in Montreal, the Prime Minister announced that Canada will contribute \$100 million to the World Health Organization's 3 by 5 Initiative. This ambitious and urgently needed program aims to get 3 million people suffering from AIDS in developing countries into treatment by the end of 2005.

Canada's generous contribution comes at a very propitious time as the Senate is considering Bill C-9. Honourable senators will remember that this bill will render available to developing countries essential drugs at a fraction of the cost of what we pay for them in Canada.

These two extraordinary initiatives really place Canada at the forefront of advanced, caring democracies. This morning, the World Health Organization officially extended its gratitude to the Canadian government.

[Translation]

As the Director General of the WHO, Dr. Lee Jong-wook, pointed out this morning: "Once again, Canada has shown very generous support for the WHO by taking a visionary approach in allowing anyone in need to have access to affordable drugs."

Finally, next year, Canada will once again play a leadership role in the fight against AIDS, as our country will assume the presidency of the Joint United Nations Programme on AIDS.

To conclude, honourable senators, we can be genuinely proud of our government for its contribution to the fight against the catastrophe AIDS represents in underdeveloped African countries.

[English]

PRINCE EDWARD ISLAND

CELEBRATION OF HIGHER EDUCATION

Hon. Catherine S. Callbeck: Honourable senators, this month and next, hundreds of thousands of young people will be graduating from universities and colleges across this country. They represent a new generation who are preparing themselves to become full and productive citizens of this country and to make their contribution to its future well-being.

Higher education is one of the best investments this country can make in the lives of its citizens.

• (1410)

Today, I want to recognize and pay tribute to the outstanding contributions that higher education is making to the province of Prince Edward Island. The year 2004 has been proclaimed as the Year of Learning and Innovation in Prince Edward Island. It commemorates 200 years of learning and innovation in the province, dating back to 1804 when Kent College, the first institution of higher education, was founded by the provincial government.

This year, as we celebrate 200 years of higher education in our province, we acknowledge the significant contribution that the University of Prince Edward Island is making as one of Canada's great small universities. Holland College, a college of applied arts and technology, has become a leader in the development of specialized training. The Atlantic Veterinary College has gained an international reputation in animal and health research.

Honourable senators, to mark 200 years of academic excellence in the province, I am proud to note that Canada Post has recognized the University of Prince Edward Island with the release of a commemorative stamp. This attractive stamp was unveiled last weekend during the university's convocation ceremonies in Charlottetown, and is now on sale at post offices across the country.

I would like to commend Canada Post for recognizing UPEI in this way. I also want to recognize the past 200 years of higher education in Prince Edward Island and congratulate all those who have been part of its history and accomplishments.

[Translation]

ARRIVAL OF FRENCH COLONISTS IN NORTH AMERICA

FOUR HUNDREDTH ANNIVERSARY

Hon. Aurélien Gill: Honourable senators, as you know, this year we are celebrating the 400th anniversary of the French presence in America: 1604 to 2004.

As an aboriginal person, I rejoice and share in the celebrations.

This is the anniversary of Acadia, and Acadia was originally located in what today is Nova Scotia. It is the ancestral home of the Mi'kmaq—Megumaagee. Chief Membertou welcomed the French on their arrival, and the French settled at the place now called Annapolis Royal.

Chief Membertou taught the French about the country and about the Americas. He watched over the possessions and buildings of the first French settlers for several years, while they went back to France, until their return in 1608. He was the first Amerindian baptized as a Roman Catholic in the Americas. Until his death in 1611, he wanted his people to collaborate so that the lives of both groups would be improved.

The friendship of the Mi'kmaq and the French is a significant historical fact. This friendship and this alliance have not faltered for more than 150 years. When France gave up Acadia in 1713, under the Treaty of Utrecht, the Mi'kmaq remained faithful to their first European friends. Forty years later, the Mi'kmaq helped the French Acadians during the tragedy of the deportation and the conquest. They welcomed them, helped with their problems, and supported them in their new communities in New Brunswick. This history of co-operation is not well enough known today.

There have been many marriages, collaborations, exchanges and common memories. The history of French Acadia is also the history of the Mi'kmaq. We cannot insist too much on the cultural exchanges and the proximity of these two peoples. They have lived side by side, sharing daily life and activities, and also sharing a destiny — that of fighting for survival.

Memory is unreliable and it happens that all this was forgotten for a generation or two. Let us take advantage of this occasion to look at our past once again. Let us help the Acadians celebrate this collaboration between peoples. Let us learn a lesson from this friendship and draw inspiration for the future of Canada.

As an Aboriginal and on behalf of everyone, I celebrate with the Acadians. I wanted to tell the Senate how proud we are, together with the Acadians, of this great anniversary. We have a common history and we know it. Could we not take the 400th anniversary of the French presence in North America as an opportunity to better understand the ties that unite us across Canada?

[Senator Morin]

Our country is the result of our destinies. It will be the result of our cooperation. Membertou and his people showed us the path: exchange, share and learn from one another in order to create a better world. The Mi'kmaq did not want to become French and the Acadians did not want to become English, each group is proud of its identity. That is a fine example of healthy cultural diversity and the key to our future!

Let us celebrate with the Acadians and look at the positive side of things.

[English]

ROUTINE PROCEEDINGS

AGRICULTURE AND FORESTRY

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Donald H. Oliver: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I move:

That the Standing Senate Committee on Agriculture and Forestry have the power to sit at 5:30 p.m. today, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

[Translation]

IMPORTANCE OF PARLIAMENTARY AND INTER-PARLIAMENTARY ASSOCIATIONS

NOTICE OF INQUIRY

Hon. Marcel Prud'homme: Honourable senators, I give notice that on Thursday, May 13, 2004:

I will call the attention of the Senate to the importance of Parliamentary and Inter-Parliamentary associations.

[English]

QUESTION PERIOD

NATIONAL DEFENCE

POSSIBLE TRANSFER OF HEADQUARTERS

Hon. J. Michael Forrestall: Honourable senators, I have some more real estate business to discuss with the Leader of the Government in the Senate. Perhaps he will learn something from his staff; it is worth a try.

Today, the *Ottawa Citizen* reported that a deal is near on the JDS Uniphase campus but that the company refused to disclose who is the buyer. I have been told by a reliable source that the head of social housing for the City of Ottawa visited National Defence headquarters to determine its suitability for social housing.

Will the Leader of the Government in the Senate confirm this fact, or will we have more stonewalling? I say that kindly.

Hon. Jack Austin (Leader of the Government): Honourable senators, I have no information to provide to the Honourable Senator Forrestall.

• (1420)

Senator Forrestall: Under whose instructions is the Leader of the Government in the Senate operating with respect to my next question?

Will the Leader of the Government in the Senate tell the chamber if the Minister of National Defence, who has allegedly recused himself from the JDS Uniphase matter, met with any city officials in his departmental office, either elected or otherwise? We know that they are not playing bridge or poker up there on the thirteenth floor.

Senator Austin: I can provide honourable senators with no information, as I have none. However, if the Minister of National Defence has said he has recused himself from this issue, then, in the absence of evidence or a charge otherwise, I think we should take him at his word.

Senator Forrestall: Will the Leader of the Government in the Senate admit the obvious, that the move — and it is not hypothetical at all — of National Defence Headquarters to the JDS Uniphase complex is nothing more than a shallow attempt to politicize the issue for the benefit of the present Minister of National Defence? I expect it is an attempt to bolster his somewhat sagging fortunes in the political field.

Will the Leader of the Government acknowledge to this chamber that an attempt to take away from Ed Broadbent, for example, the whole question of social housing and federal inputs and contributions may be behind the move? We have watched the Department of National Defence and the property in the east end of Ottawa. We now have this other movement, as I mentioned yesterday, of potentially some 8,000 or 10,000 people to the JDS campus. Moving those people from two other sections of Ottawa

all the way across the city will cause enormous problems. Superimpose on top of that figure the number of people who could then be housed in the present National Defence Headquarters and one comes to the conclusion that the City of Ottawa should be in on these decisions. Is there no inkling of that from Langevin Block?

Senator Austin: Honourable senators, I have received no inkling of a proposed move of National Defence Headquarters to any place.

Senator Forrestall seems to be concerned with some political advantage to the Minister of National Defence. I understand from a partisan point of view why Senator Forrestall might see that as of some concern.

Senator Forrestall: Heavens no!

Senator Austin: Oh, heavens yes!

The real issue is what is in the best interests of the efficient working of the Department of National Defence. If a move is to be made, I am confident it will be made on objective terms.

Senator Di Nino: When?

Senator Austin: I have no idea "when" because I have no idea "whether," as I continue to say.

I was quite interested in the comment of Senator Murray the other day as to whether Minister Pratt has gone too far by recusing himself and, therefore, has rendered it impossible to help his constituents, who may be very interested in a new facility in his riding. These are interesting thoughts. Obviously, Senator Forrestall is advocating a pure doctrine to be applied to ministers of whatever party, whenever such party should be in office.

I would add that recusal is a requirement of the Prime Minister's code of conduct, but Minister Pratt has gone beyond that requirement in stating that he will not participate in a departmental decision if it has any impact on establishing a headquarters in his riding.

Finally, covering the waterfront on this issue, if the JDS building is suitable and is available at a suitable price, and the decision is made by the cabinet without the participation of the Minister of National Defence, I am sure the honourable senator will congratulate the government on the move.

Senator Forrestall: Honourable senators, Minister Pratt, long before he was a minister, was deeply involved in these discussions. I do not know what happens when one becomes a minister, but my understanding is not that one just fades out of sight altogether, which is what he seems to be doing.

I have nothing but the highest regard for the Leader of the Government in the Senate. However, as this is an important matter, would he care to tell me whether he said to his staff, "Do not tell me anything; I do not want to know"? Is that why he does not know anything, or is it that his beloved staff has not been able to get to the bottom of a very complex matter?

Senator Austin: I told my staff that I wish to be informed as soon as there is information so that I might inform Senator Forrestall.

Senator Forrestall: I thank the honourable leader for that.

CITIZENSHIP AND IMMIGRATION

MUNICIPAL PARTICIPATION IN IMMIGRATION PROCESS— PROFESSIONAL ACCREDITATION OF IMMIGRANTS

Hon. Consiglio Di Nino: Honourable senators, the Province of Ontario and the federal government have entered into negotiations to give the province and its cities a greater say in immigration issues. While other provinces have their own immigration agreements with the federal government, the Ontario agreement will be the first to formally allow municipalities to participate in these discussions, which I think is a good idea. Would the Leader of the Government in the Senate tell us if the federal government intends to enter into negotiations with other provinces to boost municipal participation in the immigration process?

Hon. Jack Austin (Leader of the Government): I thank the Honourable Senator for his question and for his commendation of the process.

There is recognition on the part of the government and many outside the government that immigration has a significant impact on municipalities and cities in this country.

The honourable senator's city, Toronto, and my city, Vancouver, are notable examples of a major ingress of immigrants and the demands they bring to municipalities for services and pressures on roads and additional facilities. When we say that, immigration also brings to cities benefits such as new revenue capacities and new economic growth.

It is the intention of the Government of Canada, through the provinces and with the provinces, to seek a dialogue with the cities.

Senator Di Nino: I would add Mississauga to the list of cities cited by the honourable senator. Her Worship Hazel McCallion has been vocal over the past 10 or 15 years about the need to consult Mississauga on the immigration issue. I am sure the mayor of that city will be pleased to know that I support her as well.

One of the benefits of immigration, honourable senators, is the arrival of skilled workers in our country. However, they often find it impossible to work in their chosen fields due to the obstacles they face in having their foreign credentials accredited or recognized. This problem occurs across the country. Governments must — and I believe they try to — work together to correct these obstacles.

Could the Leader of the Government in the Senate tell us whether the negotiations on the Canada-Ontario immigration issue will also include speeding up the professional accreditation process for immigrants?

• (1430)

Senator Austin: Honourable senators, again, I thank the Honourable Senator Di Nino for this important question.

I cannot answer directly whether those talks include the talks between Canada and Ontario at the present moment, or include specifically the item of credentials and the recognition of foreign credentials. However, I can say, as Senator Di Nino knows, that the government has a parliamentary secretary whose duties are specifically directed to deal with the question of credentials.

It is recognized, not only by the government but widely, that there have been many artificial and unnecessary constraints to allowing people with educational achievement to enter the labour force with that background and training. Honourable senators, it is important to the development of Canada's economy that we fully use the trained capacities of people who come to Canada.

Senator Di Nino: Honourable senators, again I agree with my colleague, the Leader of the Government in the Senate. This is only the educational background. One of the great tragedies in my province, Ontario, is that we are having a difficult time getting skilled trades people — that is, people with training in the different skills whether in industry or construction, et cetera. It is in that area that the labour unions in particular have been asking for action for many years, including, as you undoubtedly know, specific programs to attract men and women with the skills required from specific countries.

Could the leader undertake, on our behalf, to speak to his counterpart, the Minister of Immigration, to ensure that this strategy is part of the dialogue? It is truly an important problem that needs to be addressed, not only for Ontario but also for Canada.

Senator Austin: Honourable senators, I certainly will do so.

[Translation]

PUBLIC WORKS AND GOVERNMENT SERVICES

SPONSORSHIP PROGRAM—MORATORIUM ON ADVERTISING—EFFECT ON SMALL FRANCOPHONE PUBLICATIONS OUTSIDE QUEBEC

Hon. Jean-Claude Rivest: Honourable senators, my question is for the Leader of the Government in the Senate. In the aftermath of the sponsorship scandal, the Minister of Public Works and Government Services has declared a moratorium on federal government advertising. It has been in effect since last fall and was, if I am not mistaken, to end on June 1. It appears there will then be an election campaign, and then a new government will be in place.

At yesterday's meeting of the Senate official languages committee, we heard from spokespersons for small Francophone publications outside Quebec. A large part of their income came in fact from Government of Canada advertising. Several of these important newspapers are in an extremely

precarious position because of the moratorium on advertising. In some regions, people are starting to be laid off. The minister is aware of how important it is for minority groups outside Quebec to have access to publications in French.

Given the urgency of the situation, would the minister agree to contact the Minister of Canadian Heritage, or some other Cabinet colleague, with a view to organizing a meeting with the federal government, the people concerned, and the associations representing Francophone publications outside Quebec so that a temporary solution can be found to allow them to survive? The minister needs to be made aware of just how urgent it is for these French-language publications to be rescued.

[English]

Hon. Jack Austin (Leader of the Government): The hearings by the Senate committee to which the Honourable Senator Rivest has alluded with respect to the community press, in both the English and French languages, illustrates one of the very important functions of the Senate: allowing these concerns to be expressed somewhere in the political system and a movement towards remediation of the problem. I very much appreciate this issue being raised.

As you say, Senator Rivest, the moratorium will be over on June 1. The issue now that was raised in the committee, and is raised by you here today, is to take the lead time that we have this month in order to position advertising, which is their economic support, so that it can be utilized as quickly as possible. I appreciate the concern you raise because, if the lead-time is lost and we are into an election, where advertising is not possible, then it may be that the normal government programs might not be available till the fall. That would increase the economic pressure on these periodicals.

I will absolutely send the transcript to the Minister of Public Works as well as to the Minister of Canadian Heritage, with a strong recommendation that measures be taken at the earliest possible time. It must be borne in mind, of course, that if there were to be dissolution for an election, that process would stop at that moment.

FINANCE

DEFICIT REDUCTION—GAS TAX REVENUE

Hon. Donald H. Oliver: Honourable senators, Canadians were told, on page 59 of the February 1995 budget plan, that "to help meet deficit targets, this budget announces increases in taxes on business and an increase of 1.5 cents per litre on the excise tax on gasoline." Add on GST and you get 1.6 cents a litre. The deficit has been gone for some eight years now. Why are we still being hosed an extra 1.6 cents a litre at the pump in the name of deficit reduction?

Could the government leader confirm that each 1 cent increase in the price of gasoline translates into about \$32 million in extra GST revenue for the government, and that a 10 cent hike translates into about an extra \$320 million?

Hon. Jack Austin (Leader of the Government): Honourable senators, I will take the question as notice.

COMPETITION BUREAU

REVIEW OF GAS PRICE INCREASES

Hon. Donald H. Oliver: The Competition Bureau, as the minister knows, is reportedly looking into recent gasoline price hikes to see if there has been any collusion. Could the government leader advise the Senate as to when we can expect a report on this matter?

Hon. Jack Austin (Leader of the Government): I will ask the Competition Bureau.

Senator Oliver: Can I expect an answer on that subject later this week?

Senator Austin: Honourable senators, I have no idea when their process will produce a report, but I can make inquiries. That is the best I can do. Their evaluation will be done in the time it takes to do their evaluation.

THE ENVIRONMENT

GAS TAXES—COMMENT BY MINISTER

Hon. Donald H. Oliver: Honourable senators, last February, the Honourable David Anderson, Minister of the Environment, suggested in a media interview that gas taxes were not high enough. Can the government leader assure the Senate that the rest of the government does not share this view?

Hon. Jack Austin (Leader of the Government): Honourable senators, there will always be a debate among those in our economy who argue that the pricing mechanisms in the marketplace are the best mechanisms to promote conservation and wiser use of our natural resources. As Minister of the Environment, I believe this argument is one that Mr. Anderson is probably putting forth for the consideration of the Canadian public.

PRIVY COUNCIL OFFICE

DEMOCRATIC REFORM SECRETARIAT

Hon. Michael A. Meighen: Honourable senators, I am sure that you have all been intrigued by today's extraordinary announcement that the government has created a Democratic Reform Secretariat. It is a title worthy of a former East Bloc country: the Democratic Reform Secretariat.

I am not kidding. I am reading from the press release. It announces the secretariat but provides little information beyond giving a general description of its mandate, telling us that it has a Web site and that it is located — wait for it; you will never guess — in the Privy Council Office! It goes on to proclaim that this will allow the government to engage Canadians in a national dialogue on democratic renewal and support its efforts to consult Canadians. One wonders why the government needs a secretariat to do that. Why do they not just call an election?

Some Hon. Senators: Hear, hear!

• (1440)

Senator Meighen: Perhaps the Leader of the Government in the Senate will tell us who comes up with these ideas.

While he is at it, could he tell us how many persons will be working for the DRS, as it will soon be known? What is the size of the budget for the DRS? How much does the DRS expect to spend on communications activities between now and, let us say, the end of June 2004?

Hon. Jack Austin (Leader of the Government): Honourable senators, I am beginning to enjoy Senator Meighen's questions more and more. This is the second time he has advocated that the government call an election. His wish may quite possibly become a reality, only because he wished for it, of course.

Notwithstanding the jocular nature of the question, serious issues underlie the actions of the government. Those issues should be taken seriously by all Canadians. We are, or should be, well aware that questions of institutional authority have become more significant in dealing with governance, whether they be related to government, academic institutions, military institutions or churches. We have a new society with a broader base of information and learning, and a desire to participate more fully.

We see, for example, in Prince Edward Island, consideration of proportional election. Authorities there are studying whether a proportional election system should be used to select members of the provincial legislature. As well, in British Columbia there has been the appointment of a citizens' commission to consider that and other questions with respect to voting. Is the "first past the post" practice still relevant when some members of the public believe that smaller political parties or groups are not adequately accommodated within the current "first past the post" system?

We see measures by the federal government in Parliament to revalidate elected members of Parliament so that they have more authority when they meet their constituents, and so that they have the ability to participate more fully within the executive decision-making process by influencing the executive. I believe that all these reforms are part of an ongoing process that is worthy of a secretariat and worthy of a coordinating function in the Privy Council Office.

Senator Meighen: Honourable senators, I am not sure the leader answered the specific questions I asked. In fact, I know he did not. We could have a most interesting debate on the issues that the Leader of the Government raises. Where we differ is that I do not believe the place for the examination of these issues is in the Privy Council Office. I believe that the proper place for that debate is Parliament.

Senator Kinsella: Perhaps the Fathers of Confederation had it right.

Senator Meighen: Did they have a PCO? Surely the Leader of the Government would agree that actions speak louder than words. If we introduced and adopted more concrete steps towards reform, it might be unnecessary to set up an expensive secretariat. As the government leader knows full well, that secretariat will cost a great deal of money and be engaged in activities that are not strictly academic but, rather, partisan.

The press release, honourable senators, goes on to say that the secretariat will provide expertise in areas of parliamentary reform, youth participation, citizens' engagement, electoral law and public consultations. It makes no reference to the appointment of candidates, parachuting in candidates, or the subject of "first past the post."

We are told that the DRS will support the government's research and consultations on the renewal of Canadian democracy.

Finally, can the leader advise us whether this research and consultation work involves strategic polling? Will the Prime Minister's Office see the results of this polling, conducted at public expense, long before it is released to the public?

Senator Austin: Honourable senators, part of the structure of being in government includes the support of a non-partisan public service. The Privy Council Office is that: a non-partisan public service. It is the nerve centre and the strategic centre of a government's operations. It would be remarkable if the public service did not serve the government of the day in the most effective way possible. There is nothing in the elocution of Senator Meighen to suggest that the measures being taken are other than non-partisan and for the purpose of public governance.

PUBLIC WORKS AND GOVERNMENT SERVICES

SPONSORSHIP PROGRAM— FUTURE OF REVIEW BY HOUSE OF COMMONS PUBLIC ACCOUNTS COMMITTEE

Hon. Marjory LeBreton: Honourable senators, the Public Accounts Committee in the other place has yet to hear from some 90 witnesses in the ad scam scandal. Could the Leader of the Government in the Senate advise the Senate if the government is moving to shut down the inquiry and, if so, why? What do those 90 other witnesses know that the government does not want to see placed on the public record?

Hon. Jack Austin (Leader of the Government): Honourable senators, I am not in a position to comment on the business of a committee in the other place, except to say that, if it is the wish and will of that committee to hear further witnesses, it has the prerogative to do so. Alternatively, if it wishes to conclude its work, it has the prerogative to do that.

Senator LeBreton: Honourable senators, the judicial inquiry into the ad scam will not start until September. The special investigator charged with retrieving the money has not reported back with regard to how much will be repaid. There are now 36 active police investigations focussed on the Liberal government and its friends, including a lucky number 13 related to the sponsorship program. As I said in my question, 90 witnesses have yet to testify.

How can the government leader assure the Senate and Canadians that they will have the full story on this sordid mess before an election is called?

Senator Austin: Honourable senators, that has never been the commitment of the government, nor can it be, because there is a time finite for the calling of an election. There is no time finite for the processes of the commission, the RCMP investigation or the actions of a special counsel to return funds to the government.

The government's undertaking was to ensure that the public had an adequate understanding of the issues that were raised by the Auditor General's report. If it is the desire of the committee to end its hearings, so be it. The government will make a decision on the subject when it does.

[Translation]

SPONSORSHIP PROGRAM— POSSIBLE CONFLICT BETWEEN COMMISSION OF INQUIRY AND COURT CASES

Hon. Jean-Claude Rivest: Honourable senators, several Montreal legal experts have commented on the fact that the accused will be tried in September at the same time as a public judicial inquiry headed by a judge will be addressing the same matter publicly. Does this not represent a danger that the conduct of the trial of these two accused persons may be seriously compromised by the existence of a public inquiry into the same matter and at the same time as the trial?

It would seem that the government's approach was not particularly well planned.

[English]

Hon. Jack Austin (Leader of the Government): Honourable senators, neither of those processes is under the control of the federal government. The charges against the two individuals referred to by Senator Rivest are charges brought by the Attorney General of Quebec. That process must ensure that the trials meet Canadian standards of justice. The inquiry commissioner, who will begin in September, will take the appropriate steps as an experienced judge, which will be considerable, beyond the questions of this charge against the two individuals, to ensure that there is no taint by the inquiry of a proper and fair proceeding.

• (1450)

DELAYED ANSWER TO ORAL QUESTION

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators I have the honour of presenting a delayed answer to an oral question posed in the Senate by the Honourable Senator Stratton on April 27, 2004, regarding the use of contracting for professional and special services.

TREASURY BOARD

INCREASE IN CONTRACTING PROFESSIONAL AND SPECIAL SERVICES

(Response to question raised by Hon. Terry Stratton on April 27, 2004)

- The Honourable Senator has raised an interesting issue concerning the increase in government expenditures on Professional and Special Services. He has noted an increase of 10 per cent in the past year. Based on Public Account information the increase in the growth of Standard Object 4, nominally called Professional and Special Services was 7.5 per cent between 2001-2002 and 2002-2003.
- Having noted increases in Professional and Special Services expenditures over the past several years, early in 2004, the government decided to include this subject among its Expenditure Reviews. We are hoping that this review will examine patterns of the use and growth of professional and special services across the federal government, lead to a better understanding of contracting activities and identify savings and efficiencies.
- For the information of the Honourable Senator, Standard Object 4 comprises 13 classifications of services. Of the 13 categories of services reported in Public Accounts, six could be considered to be consulting services (accounting services, engineering and architectural services, informatics services, scientific services, other business services, other professional services).
- The increase in expenditures for consulting services was 0.3 per cent.
- The other seven services reported under Standing Object 4 include such services as health and welfare services, non-professional contract services, protection services, special fees and services (such as vehicle licensing fees) and training and educational services.
- The remainder of the 7.5 per cent increase, i.e., 7.2 per cent increase was in the other categories of services. For example, spending on health and welfare services increased by 15 per cent; protection services, 10.5 per cent. These services are important priorities for Canadians and areas where the government is committed to investing more.
- The 7.5 per cent increase is no doubt due to both price increases as well as increases demand including in important areas like protection services. We are hopeful that the Expenditure Review will shed some light on these issues.
- The Honourable Senator also enquired about the number of people the government has working on various consulting contracts. The government keeps track of the number of contracts, the value and the number of amendments either at the departmental level or centrally depending on the value of the contracts and

reports the information tracked centrally. However, the government does not centrally track the number of individuals who are working on these contracts. Tracking this information would be complex, costly and difficult because many of these service contracts are with firms rather than individuals.

ORDERS OF THE DAY

CANADA ELECTIONS ACT INCOME TAX ACT

BILL TO AMEND—THIRD READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Mercer, seconded by the Honourable Senator Munson, for the third reading of Bill C-3, to amend the Canada Elections Act and the Income Tax Act.

Hon. Donald H. Oliver: Honourable senators, I do not have formal written notes of my address to the chamber today on this subject, about which I feel very strongly. I would ask the indulgence of honourable senators while I make a few remarks on this important piece of legislation.

Perhaps by way of background, in the late 1960s, throughout the 1970s and during the first half of the 1980s, I was the Director of Legal Affairs for the Progressive Conservative Party, as it was then known. I was a member of an ad hoc committee that advised the then Chief Electoral Officer, Mr. Jean-Marc Hamel. Members of the other parliamentary parties also had representatives on that committee. Among other things, we negotiated, discussed, debated and worked on, at great length, issues of election expense legislation, which we did not have until the 1970s.

We also looked at the issue of the number of candidates that it was necessary to field in order to be a recognized political party in Canada. In many debates, we considered the figure 50, whether it was too high, too low or adequate. The ad hoc committee had no difficulty in recommending that figure to the Chief Electoral Officer at the time. Of course, these discussions took place before the Charter of Rights and Freedoms and before the Constitution was repatriated.

It is with that background, honourable senators, that I wanted to say a few things about the 50-candidate threshold. Was the 50-threshold fair? Is the threshold of two fair? Is it democratic? Is it objective? Does it give individuals the right to meaningful participation? Does the 50-candidate threshold give the right of individuals to meaningful participation in the political process in Canada?

Senators Mercer and Stratton have given eloquent and detailed expositions as to how this matter came before us, and I will not attempt to do what they have already done quite magnificently. However, to put my views in better context, I will say that this matter arose as a result of a three-level court case. At the first

level, Mr. Miguel Figueroa, on behalf of the Communist Party of Canada, commenced an action against the Attorney-General, seeking a declaration that several provisions of the Canada Elections Act infringed on various provisions of the Canadian Charter of Rights and Freedoms and that they were, therefore, of no force or effect. Madam Justice Malloy of the Ontario Court of Justice General Division, rendered the original decision on March 10, 1999. She held that the requirement of a party to nominate at least 50 candidates in order to be a registered political party in federal elections violated section 3 of the Canadian Charter of Rights and Freedoms and could not be saved by the general section 1. She ordered that the relevant provisions be amended by changing the word "fifty" to "two." She also struck down other provisions.

The Attorney-General appealed this judgment, and in August of 2000, the Ontario Court of Appeal delivered its unanimous written decision of the court. Mr. Justice Doherty held that the purpose underlying the right to stand for election in section 3 of the Charter was effective representation. Political parties enhance effective representation by structuring voter choice, providing a vehicle for public participation in politics and giving the voter an opportunity to be involved in the process of choosing the government of the country. The judge noted that these roles required a significant level of involvement in the electoral process — more than one nominated candidate. Some meaningful level is therefore properly a prerequisite condition to eligibility for the benefits available to registered parties, and the number of candidates is a legitimate means of measuring that participation. Although reasonable people might differ on the specific measure or number, the courts found that the 50-candidate requirement was within the bounds of reasonableness. The first court said that 50 was too high, and the judge reduced it to two. The second court said that 50 was reasonable in all circumstances. This decision was later appealed to the Supreme Court of Canada.

In June of 2003, the Supreme Court ruled that the 50-candidate threshold was unconstitutional under section 3 of the Charter. Writing for the majority, Mr. Justice Iacobucci explained that the 50-candidate minimum diminished a citizen's right to play a meaningful role in the electoral process by denying political parties that run less than 50 candidates the right to issue tax receipts, the right to receive unspent election funds and the right to have party affiliation listed on the ballot. Some of those things, as I said at the beginning, did not exist when we first started meeting in the ad hoc committee in the late 1960s and early 1970s because we did not even have an election expenses act, and we did not have a Charter.

The court ruled that withholding the right to issue tax receipts and to retain unspent election funds from candidates of parties that had not met the 50-candidate threshold undermines the right of citizens to meaningful participation in the electoral process. The court reasoned that the candidate threshold infringes section 3 by decreasing the capacity of members and supporters of the disadvantaged parties to introduce ideas and opinions into open dialogue and debate, which the electoral process engenders.

Honourable senators, none of them ever gave a reason why the figure of two or three or four or five was enough. Canada has some 33 million people. If a political-party-to-be wants to run candidates, who says that it should be one, two, three, four or

five? What could possibly be wrong with 50? The big difficulty is that choosing a number too low makes it easy to have fraud, manipulation and abuse of the system, which could come into play and do irreparable harm to the democratic system and to our current electoral system.

Mr. Justice LeBel, writing for the majority, agreed that the 50-candidate threshold violated an individual's right to meaningful participation. He also noted that competing in elections to gain positions in the legislature is one of the main functions of political parties. Although he did not offer a justification for maintaining a requirement to nominate a large number of candidates, he concluded that "a requirement of nominating at least one candidate and perhaps more in order to qualify for registration as a party would not raise any serious constitutional concerns."

What would be wrong with five or six or 10 or 15 or 20 candidates?

Justice LeBel continued:

Nominating candidates and competing in the electoral process is fundamental to the nature of parties as opposed to other kinds of political associations such as interest groups.

If the requirement were only one, two or three people to qualify as an entire political party, would that truly be fair when the competition might be an institution such as the Liberal Party of Canada?

• (1500)

My suggestion, honourable senators, is that even though the majority party in both the House of Commons and the Senate today may have large numbers, this particular bill and the implications and ramifications of it may jump out of the box and come back and bite many people, to their chagrin and surprise.

During the debate on Bill C-51, as it was once known, the Honourable Don Boudria explained that the bill was meant to strike an appropriate balance between fairness to parties and the need to preserve the integrity of the electoral system. The registration requirements are meant to ensure that registered parties are genuine participants in the process. The main issue raised by the opposition parties in the other place was the failure of the government to act on the 50-candidate threshold until prompted by the Supreme Court decision and the effect of a candidate threshold on fringe parties.

Honourable senators, underlying this whole debate and the way that this matter has been handled is the doctrine of the supremacy of Parliament. How is it that we are only acting once a court makes a rule? Why is it that Parliament did not take the bull by the horns and deal with this matter properly? Why is it that an inquiry or an investigation was not done to determine what is a fair number for a political party to field in Canada today, given the Charter of Rights and Freedoms, the electoral expenses act and the many changes that have been made in our electoral rules and laws?

Honourable senators, I have a grave fear that if this proposed legislation is left the way it is, it will do irreparable damage to the electoral system, starting with the next election, which the Leader of the Government in the Senate has hinted today may be imminent.

With those remarks, honourable senators, I feel that this bill should not be passed now but should be sent back to the committee to consider some of these grave concerns that I feel are before us.

Hon. John Lynch-Staunton (Leader of the Opposition): Would the honourable senator take a few questions?

Senator Oliver: Yes, I will.

Senator Lynch-Staunton: As I understand it, the court decided that there should be no threshold; is that correct?

Senator Oliver: That is correct.

Senator Lynch-Staunton: That 50 was too high and that there should be no threshold. Putting in one is fixing a threshold; is it not?

Senator Oliver: That is correct.

Senator Lynch-Staunton: Are we contradicting or not following the Supreme Court's decision?

As I recall from the testimony of some witnesses, some countries register political parties whether they have candidates or not, and they are recognized as such. Since one is so low, why have a threshold at all? I ask that as a lead-in to my second question.

Senator Oliver: I do not believe that there is a need to have a threshold provided that there is some control.

As honourable senators know, in this particular bill, some discretion was given to the Chief Electoral Officer. When he appeared before the committee in the House of Commons, he said that he did not like some of the powers that were given to him to deal with this threshold problem because he is supposed to be above politics — to use a bad word — and should not have to determine what it takes to really be a political party. When we call upon him to deal with this threshold question, it takes him out of his objective persona as the Chief Electoral Officer.

The Leader of the Opposition is correct. In some countries, there is no threshold, and that system is preferable to this one. This system, in my opinion, is wide open to gross abuse.

Senator Lynch-Staunton: What are the comments of the honourable senator on the claim of some witnesses that the arguments used against the threshold in the current Canada Elections Act can be used against the threshold in Bill C-24, which requires that to be eligible for reimbursement of election expenses or so much per vote, a certain percentage of the total

vote or the local vote must be reached? There is a threshold in Bill C-24 that must be met before being eligible for the financing under it. Can those arguments be used against Bill C-24? Will we have another challenge to our election legislation? Our election legislation has probably been challenged more than any other legislation in the past few years. There is something basically wrong here.

Senator Oliver: The second question is whether the election law in Canada has been the subject of a significant amount of litigation, and the answer is yes. Perhaps the area where there has been the most litigation is third party advertising. The rule in the Canada Elections Act is that if you are not a party, you cannot advertise and directly participate in the political process. A number of third parties, as initiated by the organization known as the National Citizens Coalition, have taken a series of actions in the courts in Alberta and elsewhere to raise questions about whether or not this offends the Charter.

The answer to the second question is yes, the Canada Elections Act is wide open to interpretation by the courts, which will continue if Bill C-3, to amend the Canada Elections Act and the Income Tax Act, is passed.

In the lower court in Ontario and in the second court where this appeared before, the judges wrestled and struggled with the concept of the tax implications of this bill. A political party has the right to give tax receipts and to receive a rebate after the election. That calls into question not just the Canada Elections Act but also the Income Tax Act. That is why both those acts are the subject of this bill.

Yes, I feel that even with the passage of this bill we will end up, once again, back before the courts interpreting whether the so-called threshold is fair and whether people are entitled to make application for their rebates.

Hon. Lowell Murray: Is it not true that the court imposed, for practical purposes, a deadline on us, at which point I presume the law that they found to be invalid would no longer exist? Therefore, the government, or we, are more or less obliged to bring in legislation.

As well, if we do have a dissolution of Parliament and a general election, are there any dangers in not passing this bill now? What is the practical implication to that for the laws governing the campaign?

Senator Oliver: The Supreme Court suspended the decision that they made for 12 months, until June 27, 2004. This is May 11. If one listens carefully to the words of the Leader of the Government in the Senate, something may happen on June 28, 2004. The Supreme Court suspended their decision for 12 months to allow Parliament the opportunity to amend its legislation. In effect, Bill C-3 is Parliament's response to the dictates of the Supreme Court of Canada.

Senator Murray: What would be the practical impact if we decided to follow the suggestion of the honourable senator and send this bill back to committee and it was still in committee, or not passed, at the dissolution of Parliament and the calling of an election for June 28? What would be the legal impact?

Senator Oliver: That would go to the question of whether or not Parliament is supreme. It would seem that we would be governed more by a rule of the Supreme Court of Canada and not by a piece of parliamentary legislation.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): The government could always ask for an extension of this date of June 28.

Senator Oliver: There has been an extension on more than one occasion. Parliament was prorogued and there was a dissolution, and the provisions of the act were declared invalid; however, the declaration was suspended for six months to allow Parliament a reasonable opportunity to amend the legislation. Given the dissolution of Parliament for the November 27, 2000, federal general election, Parliament did not sit very much during that six-month period. The declaration has been delayed before. The honourable senator is quite correct that it could be done again, if the Leader of the Government in the Senate were to seek that permission.

• (1510)

Senator Kinsella: My second question to Senator Oliver is this: Is it not true that the position of the Chief Electoral Officer on this matter is that he does not like this bill and, further, he is of the opinion that if an election were held in June, and if at that time this bill were not passed, that would not upset his work in any significant way? Indeed, if you put those two points together, are we not being somewhat precipitous with this bill?

Senator Oliver: The answer is yes, Senator Kinsella. It is quite clear from carefully reading the evidence of the Chief Electoral Officer that he is personally very uncomfortable with some of the new burdens and obligations that are being imposed upon him by this legislation. His is supposed to be an appointment that is above and beyond politics.

Under Bill C-3, he can be called upon to make decisions and to act upon conclusions that call upon him to make quasi-political decisions about the nature of political parties. That is not a position he wishes to be in.

Hon. Jack Austin (Leader of the Government): Honourable senators, I believe Senator Oliver and members of the Senate will understand that an application to the Supreme Court for a stay or an extension does not necessarily have to be granted.

Senator Kinsella: What can they do about it?

Senator Austin: Then there is no electoral law that applies to the next election.

Some Hon. Senators: No, no.

Senator Lynch-Staunton: That is not true.

Senator Kinsella: That is not true.

Senator Austin: That is with respect to those provisions.

Senator Lynch-Staunton: There is a difference.

Senator Austin: As Senator Lynch-Staunton says, there is no threshold whatsoever.

Second, the government has made clear, as Senator Oliver will be aware, that this is a bill for two years. In the meantime, in the next session, Parliament will review all of the matters that are under consideration and take a decision on the authority of Parliament with respect to these provisions of the electoral law.

I would suggest to Senator Oliver that it is in the best interests of this Parliament that this bill be enacted, and that we come back and take a very thorough look at the provisions of the bill in the next Parliament.

Senator Oliver: I thank the honourable senator for his comments. I am aware of the two-year sunset clause.

Hon. Serge Joyal: Honourable senators, I would like to take part in the debate as such and not address a question to the honourable senator. Perhaps there are other senators who would like to address questions to the Honourable Senator Oliver? I saw that Senator Smith was on his feet before me. He may wish to join in the debate, but I am at the disposal of the house.

The Hon. the Speaker: Are there any more questions for Senator Oliver? If not, I will go to the next speaker, Senator Joyal.

Senator Joyal: Honourable senators, I have listened carefully to the comments of Senator Oliver regarding the *Figueroa* decision, and I am pleased to participate in the debate. I had the privilege of participating with my colleagues on the Standing Senate Committee on Legal and Constitutional Affairs during that very important decision.

I would first like to draw the attention of honourable senators to the meaning of the *Figueroa* decision. I believe it is the starting point of the "redefinition" of the electoral system of Canada in such a way that the options are clear. I was about to say that we have no choice, but I do not like to put it in such negative terms.

The Supreme Court of Canada based its decision on section 3 of the Charter of Rights, as the Honourable Senator Oliver mentioned. Section 3 is under the heading of "Democratic Rights." It is quite clear that we are talking about the democratic rights of the Charter. It states:

Every citizen of Canada has the right to vote in an election of members of the House of Commons or of a legislative assembly and to be qualified for membership therein.

It is simple. The important thing is that section 3 is not subject to the notwithstanding clause of section 33. In other words, even though we may not like the decision of *Figueroa*, we have no choice but to apply it, according to section 3. We are bound by the court's decision. The drafter, as well as those who voted for the Charter, were of the opinion that we could not suspend democratic rights in a parliamentary democracy. It was a very simple argument put forward at the time. Senators Austin and Corbin were there at that time, and many other senators in this room discussed that aspect.

What does the *Figueroa* decision mean? It means that up until now, the political system of Canada was based on territorial elements. We have national parties. Confederation was founded by two national parties, namely, the Conservative Party, under the leadership of Sir John A. Macdonald, a great prime minister and a great thinker about our institution, and the Liberal Party of Canada. These were the two original parties at Confederation. They parties were territorial national parties. These parties brought together the whole of Canada through the diversity of the various regions. They were very important parties. It became clear to the founders of the federation that if the francophones and anglophones of the period could not live within one party, they would be bickering all the time. We had had that system under the government of union, as you know, since the Constitution of 1841 to 1867.

The national party was a very important element in national cohesion. We have lived with those national parties as governments, the essential element of democracy for 136 years, up to the *Figueroa* decision.

The *Figueroa* decision added another dimension to the national democratic system of Canada: that of the multiplicity of opinion. The opinion of one person is enough to be part of the electoral system. In other words, if you have one candidate running in an election, that is enough to be considered a party. There is no longer a need to be a group of people.

Personally, I was raised in an education system which shaped my understanding that a party is a group of many. A party tries to convince many people to support them, to be elected and then to form the government. That is the traditional meaning of a party.

Figueroa is the name of the gentleman from the Communist Party who challenged the Canada Elections Act. Under the *Figueroa* case, the court came to the conclusion that the value of the opinion of one individual citizen is as important as the territorial base of parties represented by the numbers.

The *Figueroa* case is a very important one. As the honourable senator and the Honourable Leader of the Opposition have said, it leads us to challenge many aspects of our elections act. If we must now count that one individual who registers as a party and runs in one riding as a national party, on the same footing as the Liberal, Conservative, NDP or any other party, you will realize that that has many consequences on how we organize the system of income tax receipts, or how we establish the quarterly allowance to the registered party under Bill C-24 that we voted on less than a year ago.

Honourable senators will remember that I was of the opinion that Bill C-24 was unconstitutional on the basis of the threshold; that is, the two previous decisions: first, the decision of Justice Malloy from the Superior Court of Ontario alluded to by the honourable senator; and, second, the decision of the Court of Appeal of Ontario.

The issue of *Figueroa* is, essentially, an issue of minority rights. The electoral system of Canada was not established in the beginning as a place for minority opinion in the democratic public debate.

• (1520)

I wish to quote the starting point of the *Figueroa* decision of the Supreme Court of Canada, which is found in the 1998 case of *Reference re Secession of Quebec* and the words of Chief Justice Lamer when he discussed that the protection of minority rights is one of the underlying principles of our Constitution. At paragraph 81, Chief Justice Lamer stated the following:

...it should not be forgotten that the protection of minority rights had a long history before the enactment of the *Charter*. Indeed, the protection of minority rights was clearly an essential consideration in the design of our constitutional structure even at the time of Confederation...Although Canada's record of upholding the rights of minorities is not a spotless one, that goal is one towards which Canadians have been striving since Confederation, and the process has not been without successes. The principle of protecting minority rights continues to exercise influence in the operation and interpretation of our Constitution.

Apply the principle of the protection of minority rights to the electoral system and we have the decision in *Figueroa*. This is very important. The Honourable Leader of the Opposition is right that the *Figueroa* decision reserved the opinion of the court in relation to the benefits that are admissible to the registered party on the basis of threshold. We are aware of those benefits: access to broadcasting, access to income tax receipts and access or reimbursement of election expenses. There were three benefits at the time of the *Figueroa* decision.

There is a fourth benefit, which is the quarterly allowance on which we voted last year. However, there are thresholds. The threshold for the quarterly allowance is based on the number of votes in an election times \$1.75 per vote. A threshold of at least 2 per cent of the votes cast must be reached to receive the quarterly allowance. On the basis of the principle in *Figueroa*, that aspect of Bill C-24 is under question. There is so much under question that Mr. Justice Iacobucci reserved his opinion on the issue. I shall read paragraph 91 of the *Figueroa* decision of last spring:

...I express no opinion as to the constitutionality of legislation that restricts access to those benefits.

He was referring to the benefits I outlined before.

It is possible that it would be necessary to consider factors that have not been addressed in this appeal in order to determine the constitutionality of restricting access to those benefits.

What did the court say, in other words? Come forward with other factors and we will reconsider them. The witnesses we heard at the standing committee last week told us that the seven political parties under review have already tried to group together to challenge Bill C-24.

Honourable senators, we have two ways of seeing things. Either we try to dig our heels in the sand and try to block the system, or we look at the electoral system as a whole and ask, in accordance to section 3 of the Charter as it has been interpreted, how we can manage a system that is acceptable and reasonable in a democratic society, one meets the test of the Charter under section 1. That is where we must base our reflection.

If we say, honourable senators, "Let us try to find a way out of this," we will not get out of this. The system will not get out of this. We will be faced year after year with challenges in the courts, which I do not think is good for the electoral system in Canada. The principle must be well understood.

How does Bill C-3 square with the approach I just described? To me, Bill C-3 has many weaknesses. The Chief Electoral Officer has outlined them. Honourable Senator Andreychuk participated in that discussion with us. We both agreed that by giving the Chief Electoral Officer the role and responsibility of reviewing other potential political parties, other than those running candidates, opens a Pandora's box for an officer of Parliament who should be seen as remaining above the fray. This is one key aspect of the bill that needs to be given sober second thought, to quote Sir John A. Macdonald again.

The other aspect is that there is no process in the review of the registration of the parties on the basis of those other purposes. If there is no clear set of criteria, there must be a clear process so that the person who is adjudicating is not caught in a conflict.

The bill offers that kind of difficulty but, as the Leader of the Government in the Senate has said, the best thing about the bill is that it has a life of two years. The minister responsible for the bill has told us that the other place has struck a committee to review the overall aspects of the electoral system.

Honourable senators, we should be part of the process. Otherwise, many aspects to the discussions will be seen differently in the other place than in this place. I say that humbly because we are not elected. Our prime interest is not to be elected. Of course, we are involved in parties. We support our candidates or we support minority views. There are independent senators in this chamber.

On the other hand, we are faced with a deadline, which is the deadline that the Honourable Senator Oliver mentioned earlier. We are faced with the comment of the Chief Electoral Officer who mentioned to us, and I quote from page 2 of his brief:

The effect of not adopting the proposed legislation before June 27, 2004, is that should an election be held after that date, the party registration regime would effectively be frozen. In particular, the Chief Electoral Officer would not be able to register any party that had filed an application for registration ... Any party that is now registered, but did not field 50 candidates in a general election, would nevertheless retain its registered status because there would be no legally valid provisions for the registration.

The Chief Electoral Officer has clearly outlined the two negative consequences of not adopting this bill. However, as I said, this bill has a sunset clause. We all agree that there are weaknesses in the bill. I have expressed those weaknesses in committee time and again with the witnesses and our colleagues.

The committee had the benefit of good witnesses: — full professors drawn from universities in Montreal, Toronto, Calgary and Saskatoon, and I invite my colleagues to read their testimony. They were very good. They were a starting point for our work and the reflection that needs to be done.

However, honourable senators, this bill is a temporary measure. We should adopt it and be very conscious that there is much more work to do to ensure that we meet the objectives of the Charter, which are not only to make sure that there is fair representation in the institution of Parliament but that the minority views have an opportunity to be expressed in the democratic debate. It is only through the expression of minority views that there is real democracy in Canada.

On motion of Senator Lynch-Staunton, debate adjourned.

• (1530)

PARLIAMENT OF CANADA ACT

BILL TO AMEND—THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Morin, seconded by the Honourable Senator Downe, for the third reading of Bill C-24, to amend the Parliament of Canada Act.

Hon. Marjory LeBreton: Honourable senators, I will not take up too much time today dealing with Bill C-24. Having sat on the committee and listened to the witnesses, most of whom were against Bill C-24, I believe, that we owe it to Parliament and to the witnesses to not simply do what we are expected to do. The observations of the committee were the best effort we could make to show our frustration and our disdain for the process that was followed with regard to Bill C-24.

Honourable senators, I know other speakers have mentioned this, but it bears repeating: The supporters of Bill C-24 — and Minister Saada was the only witness before our committee who could be classified as a supporter — suggested that Bill C-24 fills the gap in coverage and brings retirement benefits for parliamentarians into line with those of public servants. Witnesses before our committee vehemently disagreed with that suggestion.

Individuals who have left the public service do not have the option of benefit plan coverage between the ages of 50 and 55 prior to receiving their pensions. With this bill, the government is legislating a double standard, one for former parliamentarians and one for retired public servants.

The committee was also informed that the vast majority of private plans require retirees to be in receipt of their pensions before any health or dental benefits become available. In most cases, indeed almost all, the pension benefits are much depleted. Public servants who opt for a pension before the age of 55 also receive a reduced amount.

The Public Service Alliance of Canada, representing 151,000 workers, appeared before us and, naturally, were not opposed to the principle of the bill. However, they made it clear that it provides special treatment for MPs. I am reading from the testimony of PSAC:

What we cannot support is proposed legislation that addresses the issue for members of Parliament and leaves other federal workers vulnerable. We are particularly disturbed because while the current public service health care plan remains in effect until March 31, 2005, we have every reason to believe that the government is contemplating significant reductions to it, particularly in the area of post-retirement coverage. In closing, and in short, we believe the government is legislating a double standard that benefits members of Parliament to the exclusion of all other federal workers. As a result, we urge senators to take the action necessary to ensure that Bill C-24 provides the same coverage to all federal workers.

Obviously, that is their point of view., Why would you argue with them on that point?

Honourable senators, if we pass this bill, we will be, without a doubt, setting a precedent that will impact on future public service collective bargaining. The extension of these benefits to parliamentarians could result in nearly half a million federal employees requesting similar pre-pension health and dental benefits. As I said before, why would they not?

Honourable senators, Bill C-24 should have been properly debated openly and publicly. That most certainly did not happen. As Senator Lynch-Staunton said before the committee, "The public had no notice of this bill. This is what I deplore." He was absolutely right.

Senator Kirby, the chair of our committee and the senior director of a private company, told us that the private companies that provide extended health care and the private sector would never change an underlying policy or an entire plan to accommodate a single individual. They would find ways to resolve an individual case.

Indeed, the director of research for the Canadian Taxpayers Federation went further than the predictions of the PSAC when he said that copycat plans could cost taxpayers millions of dollars if federal public service unions successfully obtain the provision for their members and it trickles down through agreements with the three million public servants in the country including federal, provincial and local government employees.

Honourable senators, I realize that this particular bill was based on an individual case. In committee I asked our witnesses why an arrangement could not have been made for the member of Parliament in question, who was still a full-time member of Parliament, to access long-term disability. The witnesses said that I had a good point, that they agreed with it, but they did not understand why that was not done.

Honourable senators, a few days ago in the media there was a report stating that members of Parliament — and there are some 30 to 40 who will not run again in the next election — who are under the age of 55 will get \$70,000 severance pay along with the other benefits. In view of this I believe some arrangement could have been made for this one particular member of Parliament, instead of opening this Pandora's box and potentially subjecting the treasury to enormous costs for years.

Personally, I and many of my colleagues on both sides of the chamber, were troubled by this bill during our thorough airing of it in committee.. I believe I am honestly reflecting the views of both sides of the chamber.

Honourable senators, as a matter of fact, I appeared on some open-line shows to talk about this bill. People are paying attention to this bill. It is a great credit to the Senate that this chamber threw some light on the proposed provisions contained in this bill. That will serve this institution well. I am sure that most Canadians are surprised by the fact that it was the Senate that decided that this was not the way to proceed.

I still do not understand why some accommodation could not have been made for one member of Parliament.

Honourable senators, an editorial in the *Montreal Gazette* on April 27 says it all. It starts off by stating how the members of Parliament rushed this bill through. The editorial states:

And now, as quietly as possible, they have voted themselves a generous "bridge" so that they have full medical-insurance benefits even after they leave their jobs, until those fat pensions kick in at age 55.

There was no debate on this bill in the House of Commons, no committee hearings, no public input. Nobody from any party raised a voice against it. This was straight grab-and-run. Senators, both Liberal and Conservative, have blown the whistle on this, but are powerless to stop it.

By an amazing coincidence, as many as 40 MPs will not seek re-election in the vote expected this year. A good number of these are not yet 55. The logic, if that is the word, is transparent: "What the heck, the treasury is full of money and sitting right there. We work hard, we deserve it.

Maybe they do deserve it. If so, they should have claimed it openly and proudly, not furtively. We're beginning to see why so many people want to be MPs.

That is the end of the editorial.

That was the situation we faced. Honourable senators, if this bill passes, the new Parliament should quickly take a new look at the whole Parliament of Canada Act, in particular, how it deals with pensions. Had that been done in the first place, this bill would not have been introduced at the last moment and rushed through the House of Commons. I think that discredits the House of Commons. I hope that members in the other place, when they hear from their constituents, will be thinking hard and fast about ever again rushing a bill through in less than an hour.

Honourable senators, may I again say how troubled I am by this. This chamber will probably have just a voice vote, but I will not support this bill. We owe it to the Canadian public to listen to them. When witnesses appear before us, they surely deserve to be heard. Their words should be acted upon and not simply used as a backdrop for what we are asked ultimately to do.

• (1540)

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I have a question for the Honourable Senator LeBreton.

This item, Bill C-24, is the second item on the Orders of the Day under Government Business. If one were to look at page 3 of the Order Paper, one would see on page 3 under Orders of the Day, Government Business that there are five items. During debate on what I took to be an important government initiative, 80 per cent of the Liberal senators were not in their place.

The honourable senator has made argumentation which, unfortunately, has fallen on the ears of only those who were present. I think that the honourable senator has made a compelling case. As well, some 25 per cent of opposition senators are here.

Hon. Jack Austin (Leader of the Government): Honourable senators, I wish to thank Senator LeBreton for her comments. There is much in what she says about the concerns of colleagues in this chamber regarding this bill. It makes us uncomfortable to

deal with a bill that received no examination in the other place, and which is the result, in the other place, of the total concordance of its party leadership and of its caucuses. That alone is enough to raise questions in this chamber. I totally concur with the honourable senator in that regard.

I also thank Senator LeBreton for her conclusion with respect to this bill. As Senator Lynch-Staunton said in this debate, hard cases make bad laws.

At the same time, we have the following points to take into account. First, we should not be afraid of founding an argument by others with respect to entitlement that is based on an entitlement created here. The cases are highly distinguishable. As Senator LeBreton has said, it does create the debate and the pretext. It will take time and energy to deal with the distinctions.

Second, the other place is truly concerned with an issue of compassion, something which is always difficult to deal with. They are dealing here with a category in which, so far as we know, only one person can make a claim at this stage. It is highly unlikely, but not impossible, that in the future there will be one, two or three others. Thus, the cost to the treasury with respect to parliamentarians will not be large. I have already said that it does found an argument in other places that I believe is highly distinguishable from the current case.

Having said that, I accept the force and effect of Senator LeBreton's comments. Nonetheless, I urge honourable senators to recognize that by those comments, by the witnesses and by the examination held here in the Senate, we have served our purpose, that is, to inform Canadians with respect to this legislation. This is also a point that Senator LeBreton made: We have performed a function of value to the Canadian public. As the honourable senator said, it is an alert and a subject that Canadians can carry on in future debate and future concern.

Honourable senators, I propose that we pass the bill in spite of all the reservations that we have with respect to it. I appreciate your consideration of my proposal.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, would the Leader of the Government allow more of a comment than a question, one with which I hope he will agree?

Senator Austin: Certainly.

Senator Lynch-Staunton: While one person is responsible for the introduction of this bill, it may apply to many people. For instance, presently in the House there are some 70 members between the ages of 50 and 55. Some have already announced that they will not be running again, and some may be defeated. They, too, will become eligible for the provisions of this bill. It is not just one case. Anyone between the ages of 50 and 55 who is no longer a member of Parliament becomes entitled to these benefits until his or her pension kicks in.

Second, I cannot believe that their Board of Internal Economy, which seems to have much authority, could not, with all-party consent, have come up with an internal formula to deal with this one particular case. Perhaps that was thought of. However, I have a feeling that there is a lot of imagination over there when it comes to the treatment of individuals, healthy and otherwise. I cannot believe that this was the only solution. It could have been done differently through their Board of Internal Economy.

I throw that out, honourable senators, and perhaps we can explore it another time. My main point is that it is not only the one person who is benefiting; it is the many who will become eligible in the years to come. In fact, in the years ahead there will be hundreds who will become eligible. As Senator Oliver suggested, the Public Service Alliance of Canada has been told that we are now being put at the same level as they are. Thus, they are saying that they want to be put on the same level as parliamentarians. If they win that case, we will be into the millions of dollars in terms of costs.

Senator Austin: Honourable senators, I wish to treat the comment of Senator Lynch-Staunton as a question for the purpose of making a comment.

I observe that, perhaps, in considering the matter in the other place, they felt that an internal ad hoc decision would be even more difficult to justify. They might have announced it after the event. However, in this particular case, having the approval of Parliament to the system at least is an open and transparent process.

Hon. Joan Fraser: Honourable senators, I have a question for Senator Austin. Like us all, I have been thinking about this matter and I can see all the flaws everyone else sees with the process. I certainly take Senator LeBreton's point about the need for this whole system to be better examined in the future.

I would say to the Honourable Senator Austin, is it not at least possible that what has actually happened here is that one individual case has brought Parliament's attention to what parliamentarians would legitimately consider to be a flaw in the existing system? That is to say, we are not trying to convey a special, unintended benefit; it is that we missed something in our earlier addresses to this problem and there has not been time to do the kind of thorough systemic re-evaluation that Senator LeBreton is talking about. Thus, what we are now doing is the best we can in the time that is likely to be available to us to address a clear flaw. In so doing, even if there are processes that are imperfect, it is still a better solution than not addressing the flaw. Does the honourable senator agree?

Senator Austin: Honourable senators, I might, indeed, agree with Senator Fraser that there may be a systemic problem here. However, the urgency appears to be a single case and not a generic kind of issue with which we should deal. I have no doubt that this issue will be revisited in the two, three or four years to come, as this issue is raised in other places.

Some Hon. Senators: Question!

The Hon. the Speaker: Are honourable senators ready for the question?

Hon. Senators: Question!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Senator LeBreton: On division.

Motion agreed to and bill read third time and passed, on division.

• (1550)

BILL TO CHANGE NAMES OF CERTAIN ELECTORAL DISTRICTS

THIRD READING—DEBATE ADJOURNED

Hon. David P. Smith moved third reading of Bill C-20, to change the names of certain electoral districts.

He said: Honourable senators, I will not give you my second reading speech. It was longer, and I think you are all ready for a précis.

Honourable senators are aware that this bill changes the names of 38 electoral districts that are contained in the 2003 representation order.

Bill C-20 is the revival of Bill C-53. I like that word, "revival." Sometimes when I have looked around this room I have thought of several of my colleagues who could use that word. As to whether I mean that in a spiritual or physical sense, I will let you all figure that out for yourselves. In any event, it revives Bill C-53 from the previous parliamentary session.

Bill C-53 came into being when a number of MPs from four of the then-five parties — they have been reduced by one party since then — expressed dissatisfaction with the proposed new name changes for their ridings. They got the fifth party, which was the NDP, to agree with them on a formula whereby the House leaders of all five parties would have to unanimously agree before they could be added to the list. That bill, I would remind honourable senators — and it is worth remembering — received unanimous support for all remaining stages the following day. That does not happen too often. When it does happen, it would be short-sighted to ignore it.

Bill C-20 is identical to Bill C-53, with the exception of the coming into force clause, which will now be September 1, 2004. I would like to repeat that last sentence lest anyone miss it: It will now be September 1, 2004.

This new date, as Minister Saada explained when he appeared before the Standing Senate Committee on Legal and Constitutional Affairs on March 31, was put in place to accommodate concerns expressed by Elections Canada about its

ability to implement the new changes at this time. With the extra time, Elections Canada is satisfied it will be able to deal with this as well as the various other pressures it faces, most of which relate to the reporting requirements with regard to funding.

Honourable senators, I would like to re-emphasize what I said in my second reading speech, that this bill received unanimous consent from the other place, not once but twice, because when it was revived, the same thing happened and it again received unanimous consent and passed through all stages on the same day.

Senator Forrestall: So did my lighthouse bill.

Senator Smith: It must have been a worthy bill for that to have happened.

Senator Forrestall: It still is.

Senator Smith: This bill assures concerned members and Canadians that the names of their ridings will reflect key factors such as their geography, history and other key features of their electoral districts. At the committee stage, some colleagues raised the question of whether or not there was some politicization of the name process in a general sense, but I think that that is rarely the case. I would not want to say that it has never happened, but I think it is rarely the case because of the format that is agreed upon. Changes do not make the list unless the House leaders of all five parties — now four — in the other place have agreed to it. As the minister explained, it is really the outcome of a democratic reform.

To illustrate this, the minister drew on his own experience when he appeared before the committee. He said that he was not satisfied with the original recommendation with regard to his riding, so he made a presentation to them that was backed by the four city councils involved. It involved 38 different community organizations that had all signed on to this proposal put to them, and all mayors since 1970 of the largest city in his riding, as well as the Bloc and Conservative parties. What happened was that the commission accepted it.

However, this does not always happen. I could go through the split as to the breakdown of the various parties, but of the four parties, other than the NDP, the highest percentage-wise was actually the Conservative Party and the lowest percentage-wise was the Liberal Party, but all four had situations where all the other House leaders agreed.

This did not happen in each and every instance. I know of several Toronto ridings where there were proposals put forward that the NDP vetoed, even though they themselves did not have any changes. It is not that they were not watching the process quite closely.

There have also been questions as to whether this type of bill is the best use of Parliament's time. This is not the first bill of this nature. There have been 57 riding name changes by four separate acts that have occurred since the 1996 representation order was

proclaimed. That is the one that was based on the 1991 decennial census. The House of Commons Procedure and House Affairs Committee, in its recent report, looked into the issue of riding names. In their report, which I am now quoting, they said:

It seems pointless to us for House business to be needlessly taken up with name changes from the commissions.

It recommended that

When the responsible parliamentary committee unanimously supports an objection on a name change, the recommendation of that committee should be binding on the commissioners.

That is where their heads are. That, of course, has not yet happened, but our Standing Senate Committee on Legal and Constitutional Affairs also agreed with that recommendation when it reported back on Bill C-20.

Minister Saada stated that the Electoral Boundaries Act will be studied in the future. This and other issues pertaining to the act will be addressed. I might point out — and I know Senator Joyal has followed this matter quite closely — that senators can look at the observations of the committee in its report. It is in last Thursday's Hansard at page 1054. Rather than read it all to you, those who have an interest can look it up, and the wording speaks for itself.

There had also been concerns expressed by honourable senators concerning the issue of a Royal Recommendation requirement for a bill that has financial implications. Again, I believe these concerns were quelled by the opinion of Mark Audcent, the Law Clerk and Parliamentary Counsel. He said:

Bill C-20 is not unique. Rather, it is the last in a long series of bills to change the names of electoral districts. Since February 27, 1996 when the second session of the 35th Parliament commenced, there have been 15 bills to change the names of electoral districts, six of which have become law. None of the 15 had a Royal Recommendation. Parliamentary practice thus clearly establishes that both Houses treat these bills as coming under existing statutory authority to spend, and not as new and distinct charges.

I am comfortable with that assessment.

Honourable senators, the degree of consensus around these proposals in the other place speaks volumes about what I would suggest is a non-partisan approach, when the House leaders of all five parties agree on the list that is before us in this bill. I am comfortable with this bill and encourage colleagues to pass it quickly. It will come into effect on September 1 of this year.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I have a question of Senator Smith. Is he advising us that this bill will not affect the impending federal election?

• (1600)

Senator Smith: If the election were to occur before September 1, in the year of our Lord 2004, A.D., it would not.

On motion of Senator Kinsella, debate adjourned.

PATENT ACT FOOD AND DRUGS ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Corbin, seconded by the Honourable Senator LaPierre, for the second reading of Bill C-9, to amend the Patent Act and the Food and Drugs Act (The Jean Chrétien Pledge to Africa).

Hon. Consiglio Di Nino: Honourable senators, I will not be overly long. I wish to thank you for the opportunity to rise to speak to this most important legislation, Bill C-9, to amend the Patent Act and Food and Drugs Act.

Honourable senators, we on this side recognize and support the purpose of this bill, which is to facilitate access to low cost patented drugs to help those in developing countries deal with the scourge of AIDS, malaria and tuberculosis.

As has been stated, in August 2003, the World Trade Organization recognized the crisis situation affecting many developing countries and agreed to implement a decision to waive obligations in the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights, or TRIPS. This waiver allows countries to produce generic copies of patented medicines for export to developing and least developed countries that do not have the capacity to manufacture these drugs domestically.

Bill C-9 makes Canada the first country to implement the WTO agreement to get much needed medication to Third World countries. The Conservative Party supports this proposed legislation and Canada's efforts to help developing countries deal with public health emergencies such as AIDS.

Honourable senators, our party was prepared to pass this legislation in the other place in one day last November, when the bill was called Bill C-56. I was proud of our colleague, Senator Lynch-Staunton, and his offer to pass this bill in one day as well in the Senate if amended to correct the exclusion of the Senate from participation in this bill. Our leader offered what I thought was a reasonable solution —

Senator Oliver: Magnanimous!

Senator Di Nino: — to a problem that, once again, affects our status in Parliament.

Senator Keon has discussed the chilling statistics of the growing epidemic of AIDS. There are 36 million Africans living with AIDS in South Africa alone, an infection rate of one in five. In the Ivory Coast, a teacher dies of AIDS every day. These statistics are staggering, but the magnitude of human suffering is truly monumental.

We support this bill, but before it passes, a few points should be put on the record or re-emphasized.

First, honourable senators, we recall that both Senator Keon and Senator Morin raised the question of diversion the other night, and it is a serious one. We must ensure that drug manufactured under licence for a developing country with serious health problems will not be diverted to another country and sold on the black market. I re-emphasize the importance of this point.

Under the proposed legislation, the genetic drug must be distinguishable from domestic brands and products through labelling, marking the pills, embossing or other appropriate means. This will go some way toward discouraging diversion or re-importation. I do not believe that it will, on its own, solve the problem. We must remain vigilant and look for ways to ensure that this program is not abused.

Second, part of this bill amends the Food and Drugs Act to ensure that pharmaceuticals manufactured for export to developing countries meet the same standards as those drugs made for consumption by Canadians. Clause 2 of the bill alters the existing export regime so that Health Canada can assess the safety, efficacy and quality of the medicines being exported under a compulsory licence. Normally, the importing country would do the assessment, but it is recognized that many countries that will receive these drugs simply do not have the capability to make the assessments. It will be important that Health Canada is properly resourced to undertake these important assessments.

Third, many Canadians have raised the issue of the capability of developing countries to administer these drugs. Once again, Senator Keon, in one of the best speeches I have heard and read in the Senate in a long time, stated last night that there are many logistical barriers to overcome for these drugs to reach those in need. We know that there may not be a distribution network in place or sufficient medical personnel to supervise the administration of drugs. Things that we take for granted here in Canada, such as refrigeration and potable water, may not exist in areas where the drugs are most needed.

Honourable senators, the Prime Minister's announcement yesterday that Canada would contribute \$100 million to the World Health Organization to help people in developing countries combat AIDS is an important announcement and one that I applaud. This contribution, about one third of the total needed for the program, will help to train doctors, nurses and other community health personnel in countries that have been devastated by AIDS. This program is being called the 3 by 5 program because of the goal to get 3 million people in 50 developing countries, especially in Africa, into treatment by 2005.

In terms of capacity building, I would hope that we would hear from the Canadian International Development Agency in terms of how they would plan to complement the objectives of Bill C-9. Will Canada be focusing development dollars to help countries that are most in need develop the infrastructure to deliver these drugs? How are our efforts complementing the efforts of other countries?

Honourable senators, the goals of this bill are important. I am pleased that there will be a review two years after the amendments to the Patent Act come into effect to determine how successful we have been in getting drugs to those needy countries to deal with AIDS, malaria and tuberculosis.

Finally, honourable senators, in the long term we must continue to research, to develop vaccines and new and more effective drugs to treat these diseases, particularly AIDS. Senator Keon stated that this disease has the potential, within three or four years, of killing the corresponding population of Canada in a single year. Canada must continue its effort to help countries develop the medical and educational programs that are needed, as much as the medicines this bill will deliver.

Thus, I end on a cautionary note. Patent protection is a key part of ensuring that these and other new medicines are developed. The patent exceptions outlined in this bill are crucially important to this program, but we must ensure that this does not represent the beginning of other exceptions to the Patent Act that could lead to a reduction in R&D funds required to develop new medicines.

That being said, I am pleased to support this bill.

The Hon. the Speaker: I caution honourable senators that if the Honourable Senator Corbin speaks now, his speech will have the effect of closing the debate.

Hon. Eymard G. Corbin: Honourable senators, I wish simply to thank all participants in this debate for their valuable contribution. We highly respect the views expressed by Senators Keon, Morin, Maheu and Di Nino. Legitimate concerns have been expressed. I am sure that once this bill receives detailed study in committee, many of their concerns will be alleviated. However, this bill does not propose to deal with everything under the sun in terms of the needs of developing countries. That should be obvious to everybody. By this bill, we are not suggesting that we have found a miracle solution, but Canada, and Canada only, has taken the first step towards addressing this very pressing question. We should all be proud of that. We should also strive to do even more in the future.

• (1610)

At the committee, officials will be present to answer any and all questions that honourable senators wish to put at that stage. I can assure everyone of that on behalf of the government, since I am the sponsor of the bill. We will do everything possible to try to satisfy your legitimate concerns. It is been a good debate so far. Again, I thank honourable senators for their contributions.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, Senator Corbin mentioned the fact that the bill will be referred to committee. To which committee was he proposing to send this bill?

Senator Corbin: It is my understanding that this bill will be referred to the Standing Senate Committee on Foreign Affairs. Perhaps the honourable senator would like an explanation.

Senator Lynch-Staunton: I surely would.

Senator Corbin: I personally do not make this determination. The thrust of the bill is humanitarian in nature. It addresses matters external to Canada. The Minister of Foreign Affairs will be the minister appearing before the committee on behalf of the government to defend the bill.

Senator Lynch-Staunton: The last time we dealt with the Patent Act, Minister Tobin was Minister of Industry. I cannot recall to which committee the matter was referred, but it went to the appropriate committee and certainly not to the Foreign Affairs Committee.

Senator Corbin: That was industry.

Senator LeBreton: That was social affairs.

Senator Lynch-Staunton: I hope that when the motion is made, an explanation will be given as to why it is being referred to the Foreign Affairs committee. I think that is the wrong committee to deal with this matter and that the bill should go to the committee that already has expertise on the Patent Act.

Senator Corbin: I respectfully suggest that each house determines, on its own merits, which committee is best suited to deal with the topic at hand. As I just finished saying, this is a matter of international aid. What better committee than the Foreign Affairs Committee to deal with it?

The sponsor of the bill in the House was the Minister of Industry. It was decided that the Industry Committee of the House of Commons should deal with it under that umbrella. I must admit that they have done a terrific job of reviewing and amending the bill. That job is now done. Their work is before us. I think the Senate should now more appropriately address the overall area and field of humanitarian aid and what this bill does in that respect. I cannot say more than that.

Senator Lynch-Staunton: I will not prolong this. It is well and good that the bill provides for foreign aid and humanitarian help and all of that, but the bill itself is a major deviation from the purpose of the Patent Act as sanctioned by the WTO. It is an extraordinary development, and it is welcomed. However, what we must find out — and do I not think Foreign Affairs will look at this — is whether the deviation is limited to the purpose of the bill itself or whether it will continue in our Patent Act and be applied to other situations that have not yet occurred to us. That is what I want to determine.

No one is faulting this the purpose of this bill. It should have been in place a long time ago. I am delighted it will finally get to where it is supposed to be. I and others, including the generic and pharmaceutical drug companies, would like to know whether the deviation being used here will apply only to the particular case that is the subject matter of bill.

Hon. Jack Austin (Leader of the Government): If I may be allowed to respond to Senator Lynch-Staunton, what he says is correct. This is a cross-cutting piece of legislation. It was seen in the other place as a bill that primarily dealt with amendments to the Patent Act in order to make the domestic policy changes. Those arguments have been fully extended in the other place.

However, the purpose of the bill is, as Senator Corbin has said, is to extend Canada's foreign aid program in a way that may indeed be novel, but it is based on a foundation created by the World Health Organization. It is certainly my view that the foreign policy implications of this bill are germane to the Senate. Comments in committee should be sought with respect to the impact of this bill on Canadian foreign policy and aid policy and on Canada's standing in the world.

The Minister of Foreign Affairs, the Honourable Bill Graham, is available as a witness to extend debate. Of course, the committee is possessed of its own responsibilities with respect to any other area of the bill into which it wishes to inquire.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): I wish to ask the Leader of the Government in the Senate whether his colleague the Minister of Industry will also be made available to whatever committee is seized of the bill. There is another element to this bill in addition to that which will be dealt with by his colleague, the Minister of Foreign Affairs.

Senator Austin: Either the Minister of Industry or the appropriate officials from the department will certainly be available.

Senator Kinsella: We are saying that we are cognizant of the issues, and we want to fully canvass the patent dimensions, as well as the international humanitarian contribution of Canada. I take it we have the assurance that whichever committee is chosen will be given the time to hear witnesses who can testify about the impact on patents, and on drug patents in particular. I take it there will be witnesses from both sides of the industry, from the generic side and the drug-development companies that do the research and make the investments.

We have a lot of corporate knowledge in this chamber on that issue, as we thoroughly examined it only a few years ago.

Senator Austin: In response to Senator Kinsella, I can only speak on behalf of the government and say that officials from the Department of Industry and/or the minister will be made available. I cannot tell him what witnesses the committee will select, other than those government witnesses.

An Honourable Senator: Question!

The Hon. the Speaker: Honourable senators, Senator Corbin's speech has had the effect of closing the debate. I am now obliged to put the question.

Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: When shall this bill be read the third time?

On motion of Senator Corbin, bill referred to the Standing Senate Committee on Foreign Affairs.

• (1620)

BUDGET IMPLEMENTATION BILL, 2004

SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Ringuette, seconded by the Honourable Senator Chaput, for the second reading of Bill C-30, to implement certain provisions of the budget tabled in Parliament on March 23, 2004.

Hon. Donald H. Oliver: Honourable senators, this rather lengthy bill aims to make law of several of the measures from the most recent budget. Our colleague from the government side already set out last night its content in great detail. I will limit my remarks to a few of those measures; and I will not repeat the various issues raised last night.

The first 10 pages of the bill deal with the concept of equalization. Honourable senators, I cannot stress enough the importance of equalization programming in provinces such as the Province of Nova Scotia. Without it, either we would face unconscionable levels of taxes or the services that our government provides would fall far below those of more affluent parts of our country. Equalization helps to level the playing field, allowing provinces to offer comparable levels of service at comparable levels of taxation. It is, as some have called it, the glue that binds the nation together.

Payments are required under the Constitution and, in renewing the program, the government is indeed meeting that legal obligation. However, I cannot stress enough that the program is not working as well as it could. The budget announced some tinkering with some of the tax bases used in the entitlement formula and announced that in order to make entitlements more predicable, payments would be based on a three-year moving average. Those changes are part of this bill. However, nothing is being done to address outstanding issues concerning the treatment of resource revenue, and the government ignored all calls to return to what is known as the 10-province base for calculating payments.

Over the past few weeks, as I said last night, the Standing Senate Committee on National Finance has held hearings into the equalization program. While that study is far from complete, the advice and testimony that we have received to date help to put the changes in Bill C-30 into context. We have already been made well aware of the shortcomings of Bill C-30. The changes before us were announced unilaterally without the support and advice of the provinces. They completely ignored the concerns of the receiving provinces that there be an adequate funding formula.

Mr. Terry Paddon, Deputy Minister of Finance, Newfoundland and Labrador, said in his presentation to the Senate Finance Committee on April 20:

The 2004 equalization renewal is a missed opportunity to deal in a meaningful way with the concerns expressed by provinces, finance ministers and premiers since 1998.

Furthermore, there is no indication that the federal government has any intention of addressing these concerns in the next renewal schedule for 2009, or at any other time in the foreseeable future.

The budget does not even begin to put back into the equalization programming the payments that have been lost as a result of new population figures and the downturn in the Ontario economy. The "have-not" provinces are in the uncomfortable position of having to repay equalization monies that the federal government now says they should not have received, but which they have now spent.

Mr. Paddon also said:

...When the federal government says that the 2004 renewal package will increase entitlements to provinces by \$1.5 billion in total over a five-year period, this in reality simply reduces the amount of money provinces have to find elsewhere to make loan repayments from \$5 billion down to \$3.5 billion. Having to make these repayments also severely reduces the net amount of new funding provinces will actually realize from any increase in the Canada Health Transfer for health care.

Honourable senators, coming from a have-not province, I have much empathy with these views expressed by Mr. Paddon from Newfoundland and Labrador.

Bill C-30 proposes a one-time payment of \$200 million to Saskatchewan as compensation for the way in which the calculation of Crown leases has triggered equalization clawbacks of up to 200 per cent. Bill C-30 does not, however, fix the flaws in the equalization formula that created those excessive clawbacks in the first place. A couple of weeks ago, the Premier of Saskatchewan met with the Prime Minister. I quote the premier's comments to reporters in the *Saskatoon Star Phoenix* on April 19, after the meeting. He said:

I am pleased to report that the prime minister will be speaking to Ralph Goodale, the Minister of Finance, and asking him to sit down with our officials and Harry Van Mulligen to look again at these two questions.

If the federal government is sincere, then this is a positive development, given that the budget made it clear that the government did not intend to reopen the equalization resources issue until 2009. Let us hope, honourable senators that the government is willing to do more than just talk about it. I would remind the government that other provinces, Newfoundland and Nova Scotia in particular, would like to see the resources issue revisited sooner rather than later.

I will now turn to the subject of employment insurance. Honourable senators, for years this government has milked the employment insurance program as a cash cow, a fact that year after year has drawn the ire of the Auditor General. I have repeatedly asked questions of the Leader of the Government in the Senate to reinforce my concerns about this issue. The existing law says that the program is only supposed to accumulate sufficient funds to cover a downturn in the economy. Yet, year after year, the government has overcharged Canadians to the point where the program's actuary says that the program will have a \$47 billion accounting surplus by this December.

Normally, the Employment Insurance Act assigns the independent Employment Insurance Commission the responsibility to set rates. If the EI Commission were to follow the law, it would cut premiums dramatically. A few years ago, there was a real danger that it would do just that. The government's response was to strip the EI Commission of the power to set rates beginning in 2002, on the pretext that the government wanted to consult on the way in which premiums are set. The government says that it will finally announce the results of those consultations later this year and will then bring in new rules for setting premiums.

In the meantime, the government has another practical problem: the override of the existing premium-setting rules expires in 2004, which means that the EI Commission could be back in the business of setting rates and, based on the current law, it could find itself obliged to chop the rates. In the event that the government does not get its legislation to create a new set of rules for setting rates by the end of this year, Bill C-30 gives the cabinet the authority to set EI premiums for 2005.

Honourable senators, guess what this means, once again? The budget assumes a \$1.98 premium for next year, which the government says will cover the program costs. However, this ignores interest on the existing EI surplus, and so this rate will increase that surplus.

Is there \$47 billion sitting in a pot somewhere to pay for benefits? That question was often asked and answered by other senators in this place. The answer is no, it has all gone to the Consolidated Revenue Fund to help pay for adscam, for the secret National Unity Reserve, for the cost of cancelling the helicopter contract, for fine dining, for the HRDC scandal and for the gun registry. The likely end result is that the new rules for setting premiums will likely ignore that \$47 billion.

The government is now talking about setting premiums, looking forward with a view to covering program costs based on the expected jobless rate. Honourable senators, we will need to watch this situation with caution because this will require assumptions about the future expenses of the program. If the government were overly prudent in its assumption of the future jobless rate, then the EI program would continue to run up huge annual surpluses.

What about the municipal rebate? Honourable senators, Bill C-30 would make law the full municipal rebate for GST, a measure that is welcome. However, Bill C-30 will not allow the government to provide municipalities with a share of the gas tax revenues as Prime Minister Paul Martin has promised on so many occasions. Why is it that something that seems so simple to deliver from the backbenches is proving so difficult to deliver when in government? Nor, as was promised by Prime Minister Martin more than a decade ago, does Bill C-30 abolish the GST.

• (1630)

Pre-booking of expenses: Honourable senators, the budget announced that the government's remaining shares in Petro-Canada will be sold. Honourable senators will recall that, last evening, after Senator Ringuette spoke, Honourable Senator Lynch-Staunton asked a number of questions about how certain things are booked. The Trudeau government created this Crown corporation and gave Western Canada the confiscatory National Energy Program. The Progressive Conservative government shut down the NEP and started the long process of getting Ottawa out of the business of running gas stations. The budget announced that \$1 billion of the money it received from the sale of Petro-Canada will be directed to environmental technologies. In this regard, Bill C-30 authorizes an initial payment of \$200 million from this to the existing Canada Foundation for Sustainable Development Technology. In a welcome change from the government's past practises, this will actually be booked to the fiscal year which started on April 1.

However, the government is far from consistent in its accounting practices and how it books accounts. Bill C-30 allows for \$100 million to be paid to Canada Health Infoway Inc., an expenditure the government plans to book into the fiscal year ended on March 31. Further, while the budget says that this payment was to help the provinces invest in hardware and software for public health surveillance, Bill C-30 gives no direction as to its use. Bill C-30 brings the total funds advanced to this foundation to \$1.2 billion, including its initial endowment of \$500 million announced in September 2000 and \$600 million announced in the 2003 budget.

In her April 2002 report entitled "Placing the Public's Money Beyond Parliament's Reach," the Auditor General raised concerns about Canada's health infoway accountability structure. Perhaps during our study of this bill in committee we can call her back and ask if the concerns that she raised previously have now been fully addressed.

Honourable senators, the budget also announced a payment to the provinces of \$300 million to support a national immunization strategy and \$100 million to help improve their public health facility. The budget stated that this would be booked to fiscal 2003-04, but the payments would be made over three years — so booked in one year and paid out over three other years. Why not book the expenditures in the year that they are made? That sounds like better bookkeeping practices to me. If a private sector CEO applied the same accounting practices as the Martin government, the board of directors would have his or her head on a platter, just like the former head of Nortel, Mr. Dunn. Bill C-30 authorizes payments totalling \$400 million to a trust for those purposes, but does not specify when those payments are to go into trust or when they are to go out of it, nor does it specify the amounts to be paid to individual provinces.

Honourable senators, this bill only contains a few of the measures announced in the budget. We still need legislation to permit new education grants and the reduction of the air security charge. There is not much on the Order Paper, as Senator Kinsella said today, and yet we are still waiting for income tax legislation arising from the 2003 budget for technical income tax changes announced back in 2002 and for legislation dealing with technical GST measures that have been announced over the past few years. Some of these outstanding measures, honourable senators, will eventually be passed retroactively to the 1990s.

The government is not collecting taxes on the strength of laws passed by Parliament but on the basis of unpassed ways and means motions that simply signal an intent to eventually bring in legislation retroactively back two, three, four or more years.

Did someone mention the democratic deficit? Well, Senator Meighen did today, but Hugh Windsor reminded us yesterday that that high-blown principle has given way to the crass reality of politics. I look forward to our committee's study of this bill. Thank you.

Hon. Pierrette Ringuette: May I ask a question?

Hon. Lowell Murray: Honourable senators, Senator Ringuette is the sponsor of the bill.

The Hon. the Speaker: She could ask a question without speaking. Did you wish to speak or ask a question?

Senator Ringuette: I have a question.

The Hon. the Speaker: Will you act accept a question, Senator Oliver?

Senator Oliver: Senator Murray will be speaking to the bill.

The Hon. the Speaker: Because I saw them in the order in which I have mentioned, namely Senator Ringuette first and Senator Murray second, I will see Senator Ringuette, but it is up to you if you will accept a question, Senator Oliver.

Senator Oliver: Yes.

Senator Ringuette: Honourable senators, I listened to the honourable senator's speech. He referred for a while, a long while, to the EI surplus of \$47 billion. He circled around the issue, and circled and circled again, but I have not been able to identify his position on the issue. Could the honourable senator please specify his position that issue?

Senator Oliver: The National Finance Committee dealt with this issue two years ago in a very detailed and major report. As the honourable senator knows, the rate should be fixed in a way that is based upon the jobless rate, and at present it is not. There is no need to run surpluses. That position is pretty clear.

Senator Ringuette: Would the honourable senator indicate to me if he believes that the EI premium rates should be lowered?

Senator Oliver: Yes, they should.

Senator Murray: Honourable senators, I have quite a lot to say about this bill, but it can wait until third reading, if we get that far.

On the question of EI, of course the premiums ought to be lowered. If the government were following the law instead of finding ways to get around it, they would be lower. The chief actuary of the fund has pointed out that a cushion, at the outer limit, of \$12 billion to \$15 billion would be sufficient to guard against or take care of any downturn in the economy. The surplus in the EI fund now is reaching for \$47 billion. That is truly unjustifiable. The only way the government can get around it is to do what it is proposing to do it with this bill, and did previously, which is to take the rate-setting responsibility away from the commission and away from the actuary and give it back to cabinet. We can canvas this at committee. If there is time, I will say a word or two about it if we get to third reading.

I thought it was rather cruel and thoughtless of Senator Oliver to mention Petro-Can. He is probably too young to remember it, but the creation of Petro-Can as a Crown corporation was very much Senator Austin's baby. It must be heartrending for him to be a member of a government and party to its dismemberment and privatization now. I would have hoped that, out of humane compassion and consideration, Senator Oliver would not have mentioned that.

The real purpose of my rising is to say that if this bill gets second reading and if it is referred to the Standing Senate Committee on National Finance, I intend to convene the committee for 6:15 tomorrow evening in Room 256S in the Centre Block for the members of the committee and other specially invited guests. There will be a supper at about 5 o'clock in room 172E.

• (1640)

Hon. Jack Austin (Leader of the Government): Honourable senators, I have a question for Senator Oliver regarding Petro-Canada. I wonder if he is aware that, in the decision to create Petro-Canada, there were two principal, ongoing policies. One was that Petro-Canada would only acquire assets through commercial transactions, and the second was that once Petro-Canada was founded as an effective and viable

corporation, its shares would be made available to the Canadian public. I am delighted that the Mulroney government followed the Trudeau government's policy, and I was happy to see the Chrétien government following that policy and now the Martin government following that policy.

The Hon. the Speaker: I hear senators asking for the question. Are you ready for the question?

Some Hon. Senators: Question!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Day, bill referred to the Standing Senate Committee on National Finance.

STUDY ON CANADA-UNITED STATES AND CANADA-MEXICO TRADE RELATIONSHIP

INTERIM REPORT OF FOREIGN AFFAIRS COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the third report (interim) of the Standing Senate Committee on Foreign Affairs entitled: Mexico: Canada's Other NAFTA Partner (Volume 3) tabled in the Senate on March 29, 2004.—(*Honourable Senator Stollery*).

Hon. Peter A. Stollery: Honourable senators, I was just following the Order Paper and I missed my place.

I would like to say a word or two about our review of the NAFTA agreement and I will be very brief. I want to emphasize to my colleagues the importance of our NAFTA report. We all know that the free trade agreement with the United States, which the Standing Senate Committee on Foreign Affairs has spent quite a bit of time reviewing, is the major part of our review of the free trade agreements with the U.S. and Mexico. However, in March the committee undertook to cover the NAFTA part of the free trade agreement between the United States, Canada and Mexico.

I want to briefly tell honourable senators that we found some really astounding facts. To me, the most amazing thing, which I tried to describe in the foreword to the report that, as the chairman, I get to write — but my colleagues on the committee, I am sure, would agree with me — is regarding the agricultural part of the NAFTA agreement with Mexico. It is something that you never hear discussed because we always talk about manufacturing jobs going to Mexico — the Maquiladora system in Mexico which

we have been hearing about for years, and all that sort of thing. To me, when I was in Mexico City with my colleagues, we certainly took note of the enormous amounts of peddlers in Mexico City.

I have been to Mexico City over the years and, as some of my colleagues know, I speak Spanish, but I had not been there for a few years. I was really astounded at the increase in the numbers of peddlers in Mexico City; there were, it seemed, thousands of people.

Very well, I hear you say; that is great, but what has that to do with NAFTA? Well, it has everything to do with NAFTA, because when we met with the Mexican chamber of deputies — the Foreign Affairs Committee and also the Senate committee of the chamber of deputies — we were told that because of the agricultural agreements that Mexico made with the United States and Canada — and much of this is with the United States; some of it affects Canada because we export a lot of beans to Mexico, apparently — what happened with the agriculture agreements was that, in Mexico, an estimated 4 per cent of their agriculture is what we call commercial farming, as we know it in Canada. In Canada, 2 per cent of our population are involved in commercial farming; in Mexico, it is a relatively small part of their agricultural production — 2, 3 or 4 per cent. I say 4 per cent, but it will not be much different.

However, about 30 per cent of Mexicans are involved in subsistence farming. They are subsistence farmers; they grow maize and beans and things like that for their own consumption and to sell in the local markets. They have done that since time immemorial, I suppose. What has happened is that because the commercial Mexican farmers made a free trade agreement with the United States and Canada in order to export their commercially grown fruits and vegetables and things of that nature, the Americans gained access to the markets for maize and beans and things like that, which are traditionally grown by subsistence farmers, and have wiped out the subsistence farmers. In other words, probably about 30 per cent of the employment of the Mexican work force has simply been wiped out.

Senator Mahovlich will remember that when I spoke to the deputies and the senators, I was astounded. I really was amazed — and I have spent 40 or more years in the Spanish-speaking countries — to learn that in Mexico, much of the land has been abandoned. There are simply whole villages — with no men left in them. We discovered that rather than fewer immigrants attempting to illegally cross into the United States, which was one of the arguments in favour of NAFTA, in fact there has been a huge increase to the point where an estimated 500,000 people a year illegally cross the border. In some cases, they lose their lives. It is a very dangerous proposition. There are approximately 500,000 people a year from these abandoned farms, subsistence farms, going to the United States. Probably — again it is pretty hard to get the figures — many of them go to the great cities of Mexico, such as Mexico City, Guadalajara and other places as well, and the countryside has effectively been abandoned.

• (1650)

I need not describe to honourable senators the implications of 500,000 illegal immigrants, undocumented and travelling around

the United States, with that number increasing every year by 500,000. We were told that there are probably 10 million Mexicans in the United States without papers, without rights, and they are not just heading to California and New Mexico, the traditional areas, but they are going to locations all over the country in search of employment.

This was a focused way of understanding the importance of the agricultural talks going on at the WTO. Canadians are generally against U.S. agricultural subsidies. Incidentally, much of the maize that is exported to Mexico is subsidized by the U.S. taxpayer. Canadians know that both the EU and the U.S. subsidize their agriculture so that the WTO negotiations, which are so onerous that I have heard it said that they will take 10 years to complete, are about subsidies.

However, they are not only about subsidies. They are also about the protection of subsistence farmers in many countries. I know how important subsistence farmers because I travel to Colombia, Peru, Ecuador and other countries quite regularly. If the WTO resolution does not take account of the needs of subsistence farmers, insecurity will follow. If the 500,000 Mexicans who cross the border illegally every year did not have the United States to absorb this work force, can you imagine the pressures that would build up in Mexico? When I visited Mexico City, I was amazed to see the explosion in the number of peddlers, many of whom had left their land because they could not make a living.

Honourable senators, I do not want to hold you up this afternoon. I recommend these observations to you. They are in our report, and I believe they have a profound importance to the world. Here we are talking about spending billions of dollars on security, yet, through our trade policies, we are contributing to our own insecurity. I do not think that is a smart thing to do.

Honourable senators, we live in an industrialized country with only 2 per cent of our population in agriculture. We should spend a lot more time understanding that the basis of a majority of societies in the world today, in 2004, is agriculture. Much of it is subsistence agriculture. If we are unable to make that work, we will bring insecurity to ourselves.

Hon. Joan Fraser: Honourable senators, I should like to use this occasion to report something to the Senate that is not directly concerned with the report that Senator Stollery has been discussing, but something that fits into that general framework.

I would like to congratulate Senator Stollery and his committee for tackling this important topic. Mexico is a country of huge complexity and with problems that we cannot even imagine. It was important for us to do this work.

About two or three weeks ago I was in Mexico with a delegation attending the Inter-Parliamentary Union meeting. As we all know, normally when senatorial delegations attend these meetings, we are asked to visit Canadian efforts of one sort or another in the country in question. I visited a clinic that serves the peddlers Senator Stollery mentioned. There are staggering

numbers of them on the streets. In some ways, the clinic has a lively environment, in spite of the fact that it cares for the poorest of the poor. This little clinic, which is attached to the Church of Santo Domingo, gives these people medical care, including taking blood tests and giving other care. Medical care is provided for 20 or 25 pesos, which is approximately \$3, of which the clinic keeps 5 pesos. That contributed almost nothing to its operating budget, but it manages. It has a roster of doctors who come in and serve thousands of these poor people every month.

Canada, through something called the Canada Fund, has contributed a small amount of money, less than \$13,000, to this clinic. That money has made a significant difference. We contributed two or three examining tables and a couple of IV stands. The clinic has so few funds that it could not afford to buy IV stands. We also contributed a modest sterilizer which is about twice the size of a microwave oven. That has transformed their lives. Their faces light up when they show you their sterilizer from Canada. By donating that sterilizer, we are contributing to the health of those peddlers.

By making enquiries of those people who work in the clinic, a Canadian diplomat was able to find out where a small amount of money, properly applied, could make a real difference. The clinic is asking Canada to assist them in setting up a dental clinic. That also can be done with a donation of a very small amount of money. It would be a wonderful thing for us to do.

It seems appropriate that, when one of our partners in NAFTA is trying to come to grips with so many problems — everything from trying to build a genuine democracy to coping with millions of desperately poor people — we should pay close attention to what our representatives in Mexico are trying to do on the ground to help.

My remarks are not directly related to the report Senator Stollery was addressing, but I could not restrain myself when he mentioned the poverty in Mexico.

Hon. Consiglio Di Nino: Honourable senators, before adjourning the debate I will add a couple of comments on the report and the experience that we had when we travelled to Mexico City. It was a rather quick visit that allowed us little time for any activities other than travelling to the airport, to the hotel, and attending meetings.

I was struck by both the sincerity of the interest expressed by the Mexican parliamentarians and the business people that we met. I was also struck by the frustration they expressed at any attempt they made to increase the bilateral relationship between our two countries. We often talk about the trilateral relationship of NAFTA. I am sure that Senator Stollery would agree with me and with all the other members who were there, that we should undertake to expand our bilateral relationship with Mexico. We talked about creating a parliamentary association, not a friendship group, but a fully funded association that could probably help develop three major areas. We already have an association between Canada and the U.S., Canada and Japan, Canada and France, Canada and China, and there may be others.

• (1700)

There are others obviously, but I can think of three off the top of my head. Certainly, the flow of tourists would probably move more in that direction than toward us, but a great deal of interest was shown in Canada because of the unique opportunities we offer to the world in the area of tourism. That is probably more of a benefit to the Mexicans.

The other area on which we did spend some time, although not enough, was immigration. The world needs immigration. Notwithstanding the problems that the U.S. has with illegal entrants, the Americans have discovered that most Mexican immigrants are wonderful, hard-working folks, men and women who come and put their shoulders to the wheel and make major contributions to the economy of the United States.

The other issue is trade. We do much more trade with Mexico than we do with some of the other countries with which we have parliamentary associations. It was very apparent to me, and I hope that my colleagues agree, that we should explore the possibility of a proper parliamentary association with a mandate to develop a closer relationship with that country in those and other areas.

The committee chairman may recall that we did mention that we would pursue a parliamentary association, and I wish to put that on the record. Hopefully, in the not-too-distant future, he and I can contact colleagues on the other side and put something in place. On motion of Senator Di Nino, debate adjourned.

PROTECTION OF NAHANNI WATERSHED

MOTION URGING GOVERNMENT TO TAKE ACTION—MOTION IN AMENDMENT— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Di Nino, seconded by the Honourable Senator Oliver:

That the Senate call upon the Government of Canada:

(a) to expand the Nahanni National Park Reserve to include the entire South Nahanni Watershed including the Nahanni karstlands;

(b) to stop all industrial activity within the watershed, including:

(i) stopping the proposed Prairie Creek Mine and rehabilitating the mine site,

(ii) ensuring complete restoration of the Cantung mine site,

(iii) immediately instituting an interim land withdrawal of the entire South Nahanni Watershed to prevent new industrial development within the watershed; and

(c) to work with First Nations in the Deh Cho and Sahtu regions of the Northwest Territories to achieve these goals,

And on the motion in amendment of the Honourable Senator Sibbeston, seconded by the Honourable Senator Christensen, that the motion be amended as follows:

(a) in paragraph (a),

(i) by adding the word “possibly” after the word “Reserve”, and

(ii) by adding after the word “karstlands” the following:

“at an appropriate time and consistent with the cultural, social and economic interests of the people of the region, the Northwest Territories and Canada”;

(b) in paragraph (b), by replacing the words “to stop” with the following,

“to protect the environmental integrity of the South Nahanni watershed by reviewing”;

(c) in subparagraph (b)(i), by deleting the word “stopping” and the words “and rehabilitating the mine site”;

(d) in subparagraph (b)(ii), by deleting the words “ensuring complete restoration of”;

(e) in subparagraph (b)(iii),

(i) by deleting the words “immediately instituting an interim land withdrawal of the entire South Nahanni Watershed to prevent”;

(ii) by deleting the word “and” at the end; and

(f) by adding, after paragraph (b),

(i) a new paragraph (c) to read as follows:

“(c) to include as part of the review:

(i) a response to the Senate report, *Northern Parks — A New Way* that indicates the government’s policy to ensure employment and economic benefits from the creation of northern parks will flow to local aboriginal people, and

(ii) a complete assessment of mineral and energy resources in the area”, and

(ii) by re-lettering the current paragraph (c) as (d).—(Honourable Senator Di Nino).

Hon. Mira Spivak: Honourable senators, Senator Di Nino has kindly allowed me to speak before he does. I have a brief comment on the motion.

When the Subcommittee on the Boreal Forest travelled to parts of the karstlands region several years ago, we did not visit the Nahanni National Park Reserve at its northwestern tip, although after hearing Senator Di Nino describe its magnificent landscape with such passion I am very sorry that we did not.

In reflecting on his motion, I was also struck by how many arguments in favour of expanding the park reserve and stopping industrial activity go to the heart of the boreal forest subcommittee findings. Those findings are making their way into more places than we could possibly imagine, including the provincial departments and to the new coalition of environmentalists and forestry companies who have recently put forward a proposal based on some of the subcommittee’s findings.

Many of the arguments also go to what our Standing Senate Committee on Energy, the Environment and Natural Resources hears time and time again in its studies of parks bills, or the Species at Risk Act or environmental legislation.

First, it is becoming evident that size matters. We cannot protect wildlife wilderness values and water quality of any region, anywhere, by carving out small areas for protection and hoping for the best. There is a famous scientist by the name of Lovejoy who has carefully studied the fall-down factor. He is one of the world’s experts on the argument that small areas cannot contain biodiversity.

Nor can we protect wildlife by creating large protected areas and then exclude portions of them for mining or logging or other forms of industrial development. It simply does not work. The reason it does not work is that nature does not recognize our invisible manmade boundaries. Protecting far-ranging species such as caribou and grizzly bears, in particular, means protecting large continuous portions of their habitat, not a few hectares here and there.

Second, integrity matters. As much as piecemeal parks do not work, neither do parks neatly carved around industrial development. The boreal forest subcommittee saw clear evidence that once roads are carved into wilderness, people will find ways to use them, even after they are closed when logging has ended.

Senator Di Nino spoke clearly of the recent downstream effects of mining near the Nahanni Park Reserve. As much as some might wish otherwise, clear choices must be made between wilderness protection and industrial development. Nature is not inclined to compromise.

Third, the rights and wishes of Aboriginal communities must be respected by government and industries, whether they are planning a park or an industrial project.

With those three principles in mind, I fully support the motion to expand the Nahanni National Park Reserve to include the important 15 per cent of the watershed that is now unprotected and to stop all industrial activity within the watershed. The importance of the forest watershed issue is not truly recognized at the moment.

With those principles in mind, however, I have difficulty supporting the amendments to the motion. While I respect the opinions of our northern senators who advance them, to my mind they weaken the message the Senate should be sending. They invite delays, pending, among other things, a complete assessment of mineral and energy resources in the area.

I certainly appreciate the concerns of honourable senators about employment and economic development. However, we need to get a heads-up before industrial development means that we cannot preserve the park.

On the issue of employment and economic development, the First Nations are leading the way toward park expansion. That is something I would like to see us endorse.

I congratulate Senator Di Nino for bringing this subject to our attention and I strongly support the original motion. I hope that in the future when a Senate committee revisits the state of the boreal forest from northwest to southeast, he will be part of the study group and bring to it his obvious passion for wilderness protection.

Hon. Consiglio Di Nino: Honourable senators, I wish to add a few words in reply to the proposed amendment to my motion with respect to the Nahanni watershed. I am pleased, though not surprised to hear, that Senators Sibbeston and Christensen support the principle of park expansion. Indeed, I agree with them that a balance needs to be achieved between development and wilderness preservation. However, I cannot support all of Senator Sibbeston's amendments. In truth, his amendments leave in place the status quo.

Senators Sibbeston and Christensen state that industry is important to the people of the surrounding communities. I fully agree. It is important to tap the resources in the North and to create opportunities for the communities in these areas.

In Senator Christensen's remarks, she stated that the local communities and the local government need to decide this issue. I want to be very clear again that I agree: This is an issue for the local people to decide.

• (1710)

However, honourable senators should be aware that I did not wake up one morning and arbitrarily decide to become involved. Certainly, introducing this motion was my idea but I have been petitioned to help, as have many others in this chamber. The initiative comes from the surrounding communities. My motion is strongly supported by the local First Nations people. I wish to put on the record a letter I received from Chief Peter Marcellais of the Nahanni Butte Dene Band, the First Nations community directly

affected by this issue. The letter is addressed to me and dated March 23, 2004, re: the expansion of the Nahanni National Park Reserve:

I have been given to understand by the Grand Chief of the Deh Cho First Nation, Mr. Herb Norwegian, that you have given notice of motion to the Senate to support the expansion of the Nahanni National Park Reserve to include the entire South Nahanni Watershed; to stop industrial activity within the watershed, and to rehabilitate the Prairie Creek Mine and the Cantung mine sites. This brief letter is to congratulate you on your vision in this matter and to thank you for any action in the above regard which will protect our traditional lands and waterways in the South Nahanni from the dangers of industrial interventions.

The community of Nahanni Butte is located at the mouth of the South Nahanni River where it spills into the Liard River. We, as have our ancestors, have always inhabited this area and used the South Nahanni watershed to make our living. Our culture and heritage are intimately connected to the lands and waterways throughout the entire area. Our traditional knowledge, learned through many generations of survival experiences in this territory, provides sound basis for the need to maintain the area in a pristine state to ensure the continued survival of our culture.

Our Grand Chief has written to the Right Honourable Paul Martin to seek his support to waive any further MERA studies of the area and support an immediate expansion of the reserve to include the entire watershed. Many of our elders have always known the whereabouts of mineral resources in the watershed. We have kept it quiet to protect the land and waterways because we believe a pristine land is more valuable than brief wealth in our generation. We see your notice of motion in this light and value it highly. We trust that the entire Senate has the wisdom to do likewise.

Respectfully,

Chief Peter Marcellais.

In addition, let me quote from the letter by Grand Chief Herb Norwegian that was sent to the Prime Minister:

We do not need another study. We already know that there are mineral resources in the South Nahanni watershed. We know that we do not want them exploited. We are the local and traditional people of the area. We have considered the potential for economic activity from developing mineral resources in the area on the one hand and the value to our way of life, our culture, water quality and the ecosystem on the other. We have concluded that we want the entire watershed protected and no mines or other development in it. An expanded national park is the best use of the area.

Honourable senators, since introducing this motion I have been inundated with letters from across Canada and, indeed, the world in support of preserving Canada's first world heritage site. I believe we owe it to the local communities to listen to them and to help them preserve their lands.

Honourable senators, none of us disagree in principle on the need for development and the need for preservation. This is simply a question of where to draw the line. The affected First Nations communities ask that the line be drawn on the watershed and karstlands. It is not an unreasonable position and I hope that honourable senators will agree.

I am still consulting and will continue to do so. I will have further comments on this issue at a later date. Unless another senator wishes to speak, I move the adjournment of the debate.

On motion of Senator Di Nino, debate adjourned.

FOREIGN AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Leave having been given to revert to Notices of Motions:

Hon. Peter A. Stollery: Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I move:

That the Standing Senate Committee on Foreign Affairs have power to sit at 3:00 p.m. tomorrow, Wednesday, May 12, 2004, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

The Hon. the Speaker: Honourable senators, is it your pleasure to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

CHILD-DIRECTED ADVERTISING

INQUIRY

Hon. Mira Spivak rose pursuant to notice of April 28, 2004:

That she will call the attention of the Senate to the need for government intervention to curb child-directed advertising that encourages poor nutrition and physical inactivity.

She said: Honourable senators, I rise to draw your attention to the issue of child-directed advertising — an issue that stirred considerable debate in the 1980s and is now rearing its head again.

As long ago as 1874, parliaments have been concerned about protecting young children from commercial exploitation. In that year, the British Parliament passed the Infant's Relief Act, to protect them from their own lack of experience and from the wiles of tradesmen. In December 1878, Quebec passed its Consumer Protection Act banning commercial advertising directed at children under 13 years of age. Four years before that, the CRTC required the CBC's French and English television networks to eliminate advertising from its children's programs as a condition of licence renewal.

Now the question is: to ban or not to ban other ads and promotions specifically aimed at kids? While we may think that we dealt with the issue decades ago, there are compelling reasons to revisit it. A February report from the American Psychological Association's Task Force on Advertising and Children points out that for many years, young children were generally considered off-limits to advertisers. Their parents were the intended audience. I quote from the report: "More recently, however, children — sometimes very young children — are the audience directly targeted by advertisers." Psychologists are serving as consultants to those advertisers.

According to the task force, the dramatic increase in advertising directly intended for the eyes and ears of children is the result of two trends. The first is the appearance on cable television of entire channels of child-oriented programming and advertising and, more recently, there is the explosive development on the Internet of child-oriented Web sites with advertising. A Google search for "kids" on the computer will net you 71 million possible choices, or "hits," with sites that contain child-directed advertising included in the first 10 responses. A Google search for "Nemo," the popular Disney fish character, returns two and a half million responses.

• (1720)

The second trend is what psychologists are calling "the privatization of children's media use" — that is, children viewing, without parental monitoring, TV sets in their bedrooms or on the family computer. As a result, North American advertisers are spending more than \$14 billion a year to reach children directly, and North American children are watching more than 40,000 commercials. The purchasing power of teenagers and children is unbelievable.

Psychologists are very concerned about these developments, for good reason. As the task force explained, children lack the cognitive development to process ads as adults do. Until they are four or five years old, they cannot distinguish between commercials and the children's programs designed for them. Until they are seven or eight, and perhaps older, they do not recognize the persuasive intent of advertising. The task force admits it does not know the upper age limit of children's unique vulnerability to advertising. It may be several years higher. For now, however, it recommends that advertising targeting children under the age of eight be restricted.

In essence, this very recent report echoes a Supreme Court of Canada decision in 1989 that found that:

...advertising directed at young children is *per se* manipulative. Such advertising aims to promote products by convincing those who will always believe.

The negative impacts of child-directed ads are also becoming apparent. Several studies, for example, find that parent-child conflicts commonly occur when parents deny their children the products the ads promote. Others have documented the high percentage of ads that feature candy, fast foods and snack food. Several have found strong associations between increases in advertising for non-nutritious foods and rates of childhood obesity.

The California psychologist whose controversial letter caused the task force to be formed went further, suggesting that child-directed advertising is not only creating an epidemic of materialistic values among children but also what he calls "narcissistic wounding." As a result of advertising, children have become convinced, and probably adults as well, that they are inferior if they do not have an endless supply of new products.

Others are calling for restrictions on child-redirected advertising, motivated by the growing epidemic of overweight children.

The American Public Health Association last year urged legislation to eliminate food advertising on children's television, citing the epidemic and the possible role that food and beverage ads may play in eating habits. The United Kingdom Food Standards Agency has reviewed conflicting studies and found "sufficient evidence to indicate a causal link between promotional activity and children's food knowledge, preferences and behaviours." The World Health Organization has also concluded that the evidence linking food ads and childhood obesity is not unequivocal, but there is sufficient indirect evidence to call it probable. Nearly a dozen EU countries already restrict advertising directed at children.

Here in Canada, 24 organizations, including the Canadian Teachers' Federation, the Centre for Science in the Public Interest and the Canadian Women's Health Network, are now calling for legislation to prohibit commercial advertising and promotion directed at children under the age of 13. They point out that most children's advertising champions nutrient-poor foods and such products as video games, movies and television programs, all sedentary forms of play.

The statistics they cite are stunning. Since 1981, the percentage of overweight Canadian children aged 7 to 13 has more than doubled and obesity has more than tripled. These overweight children are more likely to become overweight adults, with all of the associated health problems. The cost to the Canadian economy as a whole of preventable diet and inactivity-related disease is estimated at between \$6.3 billion and \$10.9 billion a year. The human cost, in addition to disability and suffering, is a staggering 20,000 to 47,000 premature deaths annually.

These groups want an amendment to the Competition Act to make commercial advertising and promotion directed at children under the age of 13 a reviewable conduct. Of course, that would still leave ample room for non-commercial promotion — by Health Canada, for example — of the benefits of nutritious eating and physical activity.

Some, no doubt, will question whether we need it, given the Broadcast Code for Advertising to children that the CRTC asks broadcasters to honour and the Code of Ethics and Standards of Practice that relate to on-line marketing to children. Since 1990, Canadian companies that market and advertise to children have come together to preserve the status quo. On the heels of the Supreme Court decision that affirmed Quebec's right to ban

child-directed advertising, they did not want to see other jurisdictions adopt the model.

A federal-provincial committee in 1985 did look at the impact of the Quebec legislation. It found both a revenue loss for the advertising industry and a drop in the production and broadcasting of children's programming in the province. Nevertheless, it recommended that both the governments of Quebec and Canada declare themselves in favour of maintaining the act. That was in 1985. It is difficult to say what it is now.

Some may speculate whether there is a better tool — more stringent controls in the Broadcasting Act or the Food and Drugs Act, for example. I am persuaded that the Competition Act approach that these groups advocate has multiple advantages, not the least of which is that it follows Quebec's court-tested example. In addition, no other instrument seems likely to deal with the many ways in which children are now targeted in the traditional media, on the Internet and even at children's festivals.

Therefore, I plan to introduce a Senate public bill to advance this measure and I welcome the thoughts that senators and others have on it.

In conclusion, I should like to quote one of Canada's best-loved children's entertainers, Raffi, who very courageously withdrew from the Vancouver International Children's Festival in 2000 to protest its overt commercialization. In *The Globe and Mail* that summer, he wrote:

...every day, with the help of psychologists, big businesses wage media campaigns that target children from birth as consumers. We need to understand that this serves no one. It is wrong, and it must stop.

Who will look after the children? Is it really so difficult for economists and legislators to envision a business ethic that favours the many? Do we lack the imagination to conceive of a society that respects its young, one that would therefore embrace an honourable protocol for commerce?

Honourable senators, it is an important challenge and one that I am certain with the proper effort we can meet.

Hon. Tommy Banks: Honourable senators, my avid attention was drawn as soon as the honourable senator said "obesity," because I have a certain interest that made me pay attention.

I was involved peripherally in the advertising business, and I hope that when the senator devises her bill, she will be able to take into account the means by which one would be able to determine the difference between a commercial for a video game aimed at a 15-year old as opposed to one aimed at a 14-year old. I think the objects of such a bill are admirable, but we must exclude those commercials that are judged by someone to advocate or promote physical activity among young people or those products that might be highly valuable and educational but commercial nonetheless. The broad stroke should not catch everything.

Senator Spivak: Quebec has had a long experience with this subject. I am sure they intend to study it carefully, and I am sure many of the bugs have been worked out.

Commercial advertising directed at children is intrinsically wrong. Commercial advertising should not be directed at children under the age of 8 or children under the age of 13. It should be directed at their parents or at the people who are really doing the buying and making the judgments. Why would we expect children under a certain age — I do not know whether it is 8 or 13 — to have the judgment to determine what is good or bad for them? We do not, as a society, expect that.

• (1730)

The other thing I would like to say, when we talk about videos, sure, videos are a great thing. The hand-to-eye coordination or the games that they offer kids are fabulous. However, I think we are taking too timid an approach to the kinds of videos that are really brutal and brutalizing. Just recently, there was an example of one in which there was a different classification made, and far as I am concerned it should have been banned. It was really a piece of awful brutality and pornography, where convicts were walking around in this video attacking people with axes and God knows what.

I think common sense is what is required here.

Hon. Joan Fraser: Honourable senators, I will disguise my comment as a question in response to Senator Banks' question to you.

Can you confirm my impression, and if not, can you do some research to tell me whether I am right? As a parent in Quebec, I was always very pleased that my children were, at least to some extent, protected from the kind of advertising that you are talking about. There is obviously overflow across the border, but at least there was some safe zone. It is my impression that that law in Quebec has become almost sacred. It is so popular and so accepted that no one contests it. Goodness knows, there are lots of vigorous people in Quebec who will contest almost anything you can think of. It is a very argumentative society when it feels that its interests are at stake. However, it is my impression that in the generation or so since that law was adopted, it has won massive public support, so that even the industry does not go there any more.

Senator Spivak: I think you are right, and this idea did not come to me out of the blue. I was approached by a number of groups to bring this matter before the Senate, as is the usual case — groups which have been working on it, and that is what they told me.

If we believe in experimentation by the provinces, or we do not, in health care or whatever, it seems to me that we should learn from any good measure that one province has initiated and try to make it a national thing. Is that not what medicare is all about — or was about with Tommy Douglas? It seems to me, in reply to your question, yes it is almost a sacred thing in Quebec. Why would we not learn from something that is really established in Quebec, and is a good thing — this is the argument I was given by the groups that came to me — and attempt to make it a federal matter?

The Hon. the Speaker: If no other senator wishes to speak, this inquiry will be considered debated.

NATIONAL SECURITY AND DEFENCE

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Jane Cordy, pursuant to notice of May 10, 2004, moved:

That the Standing Senate Committee on National Security and Defence have power to sit at 5:00 p.m. on Monday, May 17, 2004, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

The Hon. the Speaker: I am sorry; I moved too quickly. Do you wish to speak, Senator Kinsella?

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I wish to have an explanation. Could the mover explain the reason for this motion?

Senator Cordy: As you know, honourable senators, the Standing Senate Committee on National Security and Defence has had as their meeting time Monday evening or Monday afternoon because they were a new committee. As Senator Lynch-Staunton stated yesterday, the past few months have certainly been a bit unpredictable and our committee has often been unable to meet, or has had to get special permission to meet on Mondays because the Senate has been meeting on Mondays.

Senator Kinsella: Honourable senators, if the Senate rises on Friday, we will hear a date as to when we are to return. If that date is in two or three weeks' time, we will not have senators here next week.

Senator Banks: Do you know something?

Senator Kinsella: If there were no suggestion of an election, next week is normally a week off for the House of Commons for Victoria Day, but also for the Senate. If you check the calendars of the past, next week is a planned week off. The Deputy Leader of the Government would be giving notice in the adjournment motion, and I would assume it would fall in the week after the Victoria Day week.

Has this been canvassed in your committee? Have all members of your committee — I am particularly interested in the members who are from the opposition — are they all in agreement? They will have to come back if your committee sits, even though the Senate might not be sitting next week, and typically would not be sitting next week, because it would be a break week.

Senator Cordy: Honourable senators, I am not making the assumption that we will not be sitting next week. If business is not finished, then we may indeed be sitting; and I guess that is something that we will find out on Friday of this week.

I actually was not at the meeting of the Standing Senate Committee on National Security and Defence, but my colleague on the other side, Senator Forrestall, who is the vice-chair, is nodding his head that, yes indeed, the members of the committee have agreed to come back on Monday.

Hon. J. Michael Forrestall: I think what we have agreed to do is meet at our regular time for purposes of completing our work, rather than to have it lapse. All of that, of course, assumes that we will be here Monday. If we are not here on Monday, there is nothing that we can do about that. On the other hand, if we do not take this step today, we will not be in a position to work Monday. It is that minor anomaly that prompts the senator to rise and seek permission to sit at our normal time, although the Senate may be sitting.

As a rule, the Senate does not sit while our committee does. We work five or six days a week under Senator Kenny. That is a normal week. It was simply to make sure that we had the authority on the off-chance that the Senate might be sitting.

Senator Cordy: Indeed, what the motion reads is that we have the power to sit. Again, we are not quite sure whether we will be here next week; if we are here, then we have the power. We hope we will have the motion approved by the honourable senators. If we are not to be here, then I guess as members of the committee we would have to discuss amongst ourselves whether we want to meet next week. As it stands, we could indeed be sitting next week.

The Hon. the Speaker: Are honourable senators ready for the question?

Some Hon. Senators: Question!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned until Wednesday, May 12, 2004 at 1:30 p.m.

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OFFICIAL REPORT
(HANSARD)

Wednesday, May 12, 2004

THE HONOURABLE DAN HAYS
SPEAKER



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(Daily index of proceedings appears at back of this issue).

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THE SENATE

Wednesday, May 12, 2004

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

SENATORS' STATEMENTS

OTTAWA ANNUAL MILAD CELEBRATION

Hon. Mobina S. B. Jaffer: Honourable senators, the Prophet Mohammed, may peace be upon him, said: "Seek knowledge even unto China... Acquire knowledge, for he who acquires it performs an act of piety; he who speaks of knowledge, praises God: he who seeks it, adores God." He also declared: "The ink of the scholar is more precious than the blood of the martyr."

On Wednesday, May 5, the Ismaili Muslim Community of Ottawa held their annual Milad celebration on Parliament Hill. Senators and parliamentarians from all political parties joined with ambassadors and members of the Muslim community to celebrate the life and teachings of the Prophet Mohammed.

This year, Professor Azim Nanji of Stanford University, a leading Islamic scholar and Director of the Institute of Ismaili Studies, provided the keynote address to commemorate the life of the Prophet Mohammed. Professor Nanji has authored, co-authored and edited several books including *The Muslim Almanac*, *Mapping Islamic Studies* and the *Encyclopedia of Islam*.

Professor Nanji is currently a visiting professor at Stanford University and is preparing the Historical Dictionary of Islam to be published by Penguin.

In reflecting and celebrating the teachings of the Prophet, Professor Nanji emphasized three themes. First, in light of the troubling worldwide events of the past few years, he said that we must commit ourselves to the pursuit of knowledge and learning as a catalyst in the search for harmony and understanding among peoples and society. As we celebrate the Prophet's life, his example must serve as a model in times of crisis and conflict, not only to Muslims, but also to all Canadians. The message of peace must outweigh the message of conflict.

Second, the Prophet taught and institutionalized the value of pluralism, insisting on an inclusive framework for building society and reminding us that we build on the best of the experiences and knowledge of each other. Canada, Professor Nanji emphasized, embodies these principles and must serve as a model for the rest of the world.

Third, the Prophet taught the importance of caring for the underprivileged and marginalized, particularly women, and emphasized the value of instituting sustainable patterns of law and support for them.

Professor Nanji emphasized that Canada embodies many of the messages and teachings of the Prophet. We represent a country that embodies the principles of pluralism, diversity, multicultural and inclusiveness. Canadians, therefore, have a duty to embrace these values not only within Canada's borders, but also must be ambassadors of these values. Canada must not imprison these values within its own borders; rather, it must pollinate them across our global landscape.

As I leave for Sudan tomorrow, I will be sharing this message of Canadians with the people of Sudan.

CANADIAN ENGINEERING MEMORIAL FOUNDATION SCHOLARSHIPS

Hon. Catherine S. Callbeck: Honourable senators, on Friday, May 14, the Canadian Engineering Memorial Foundation will be awarding scholarships at a luncheon during the annual general meeting of the Canadian Council of Professional Engineers, being held in Charlottetown, Prince Edward Island, my home province.

The foundation is committed to creating a world where engineering meets the needs and challenges of society by engaging the skills and talents of men and women alike. To that end, the Canadian Engineering Memorial Foundation is working to attract women to the engineering profession so that they may contribute in a truly inclusive manner. In so doing, the foundation also honours the memory of the 14 women from Montreal's École Polytechnique whose lives were so tragically cut short on December 6, 1989.

I wish to recognize the foundation for investing in the education of young Canadian women and instilling in them the value of pursuing a career in engineering. For 13 years, the foundation has been awarding scholarships to talented and well-rounded students, and this year is no exception. This year's recipients of undergraduate and post-graduate scholarships are truly outstanding young women and future leaders in engineering.

Honourable senators, please join with me in recognizing the efforts of the Canadian Memorial Engineering Foundation and in congratulating this year's scholarship recipients.

UNIVERSITY OF ALBERTA NURSING FACULTY

Hon. Tommy Banks: Honourable senators, I wish to call to your attention the fact, which is little known outside my province, that the University of Alberta is one of the leading bilingual universities in the country and that it is particularly proud of its nursing faculty, which is one of the largest in the country. There are 2,600 undergraduate nursing students at this moment in Alberta. The University of Alberta has the largest graduate program in the country and the first Ph.D. program in nursing in the country.

I mention these facts to draw to the attention of honourable senators the first grant that was made by Minister Pettigrew's department last week, and which I had the pleasure of announcing, of \$2.7 million to assist Faculté Saint-Jean of the University of Alberta in establishing the first bilingual nursing program in that province and the first west of Manitoba.

[Translation]

OFFICIAL LANGUAGES

ACCOMPLISHMENTS OF COMMITTEE

Hon. Maria Chaput: Honourable senators, I would like to report on the accomplishments of the Standing Senate Committee on Official Languages since the beginning of the new parliamentary session.

Despite the limited meeting schedule, the committee was very active during the past four months. A dozen or so witnesses appeared before the committee on seven different subjects.

The committee first examined the report on the activities of the Office of the Commissioner of Official Languages and its budget for the 2004-05 financial year. The commissioner identified four main priorities on which the current government should focus. The committee was particularly interested in the first priority, which is to clarify Part VII of the Official Languages Act by adopting Bill S-4 introduced by Senator Gauthier on enforceability and the duties of federal institutions.

The committee then invited the Fédération des communautés francophones et acadienne du Canada to share its concerns about the role of the federal government with respect to official languages. It is the committee's view that the federal government should immediately implement a long-term plan to enhance the vitality and support the development of official language minority communities.

The federal government should also commit to promoting both official languages throughout Canadian society.

• (1340)

The author of a recent study on this subject told the committee that the government should make certain that the underlying goals of the Official Languages Act and its related policies are better understood by the general public and the private sector.

The committee also considered the absence or poor quality of bilingual services offered in businesses located in federal buildings in the national capital region. The three institutions identified in a recent study by the Commissioner of Official Languages appeared before the committee and promised to implement measures to ensure that tenants in federal buildings in Ottawa and Gatineau improve their compliance with the Official Languages Act.

Then, three of the key ministers responsible for official languages issues appeared before the committee in order to clarify their responsibilities and express their commitment to the

implementation of the Action Plan for Official Languages. The committee encouraged the Minister responsible for Official Languages, the President of the Privy Council, and the Minister of Canadian Heritage to maintain their commitment to linguistic duality and show leadership for the rest of the federal institutions covered by the act.

Finally, the committee examined the impact of the moratorium on new advertising activities announced by Minister Stephen Owen on March 15, 2004. The committee is concerned about the impact that moratorium might have on the long-term survival of small minority language newspapers and hopes that the federal government will soon take steps to remedy this situation.

ARRIVAL OF FRENCH COLONISTS IN NORTH AMERICA

FOUR HUNDREDTH ANNIVERSARY

Hon. Aurélien Gill: Honourable senators, I would like to add a few words to what I said yesterday about the relationship between the Acadians and the American Indians.

I stress the lesson to be learned. There is too strong a tendency to focus on certain parts of Canada's history. Too much is being forgotten, perhaps out of guilt. Too much has been omitted. We, as Aborigines, know this only too well. It is important that this attitude change and that we make sure that the history of Canada reflects the contribution of all involved.

The Acadians, like ourselves, did not have an easy time of it. History is marked with drama, error, suffering. We, the Aboriginal people of America, are well aware of that, but it is not a reason for silence. The Acadians have survived, and for that we should rejoice together! They are an important part of the Canada of today.

That is how we ought to see diversity. Let us have the courage to look at the path we have taken, and see it as a reason for unity, not divisiveness. The shockwaves from the Acadian festivities, this 400th anniversary, should carry as far as British Columbia, because history does not stop at the Bay of Fundy. The French presence in America has been sustained by its strong association with numerous First Nations, from the Mi'kmaq of Membertou to the Wallawalla right across the continent, on the other side of the Rockies.

Let us celebrate together, and let the celebration be of reunion, not separation. This is a celebration for everyone. This is a celebration of resistance, of survival, of the future. A Canada without diversity is not the true Canada. The Acadian celebrations concern us all; they are our celebrations as well. I am part of that history, as we all are, and further history stretches before us.

• (1340)

[English]

[English]

ROUTINE PROCEEDINGS

CANADA NATIONAL PARKS ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Tommy Banks, Chair of the Standing Senate Committee on Energy, the Environment and Natural Resources, presented the following report:

Wednesday, May 12, 2004

The Standing Senate Committee on Energy, the Environment and Natural Resources has the honour to present its

SIXTH REPORT

Your Committee, to which was referred Bill C-28, to amend the Canada National Parks Act has, in obedience to the Order of Reference of Monday, May 10, 2004, examined the said bill and now reports the same without amendment.

Respectfully submitted,

TOMMY BANKS
Chair

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Lawson, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

[Translation]

ASIA-PACIFIC PARLIAMENTARIANS' CONFERENCE

MEETING ON ENVIRONMENT AND DEVELOPMENT,
NOVEMBER 13-15, 2003—REPORT TABLED

Hon. Marie-P. Poulin: Honourable senators, I have the honour to table, in both official languages, the report of the tenth General Assembly of the Asia-Pacific Parliamentarians' Conference on Environment and Development held on Cozumel Island, Mexico, from November 13 to 15, 2003.

QUESTION PERIOD

NATIONAL DEFENCE

POSSIBLE TRANSFER OF HEADQUARTERS—
RECUSAL OF MINISTER

Hon. J. Michael Forrestall: Honourable senators, back to real estate. When I asked the Leader of the Government questions yesterday about the apparent conflict of interest with the Minister of National Defence planning to move DND headquarters from its present somewhat precarious location to the JDS Uniphase building in the minister's riding in what appears to be a sole-source, untendered contract, the government leader claimed that the minister had recused himself from the discussions. Can the Leader of the Government in the Senate tell us on exactly what date the Minister of National Defence recused himself from these discussions?

Hon. Jack Austin (Leader of the Government): Honourable senators, I spoke to the Minister of National Defence this morning and asked him that specific question. He advised me that he wrote to the Ethics Commissioner on December 13, 2003, to recuse himself from any participation in the question of Department of National Defence accommodation.

Senator Forrestall refers to an "apparent conflict of interest." I do not believe there is any conflict of interest, as Senator Murray pointed out, with a member of Parliament representing his constituents. However, Minister Pratt has gone, as we used to say in Victorian days, the full nine yards to ensure that there was no appearance of a conflict in this situation.

Senator Forrestall: Honourable senators, Senator Austin is a good leader.

Would the minister care to table in the Senate a copy of that letter to the Ethics Commissioner? It seems that the Ethics Commissioner is a ticket to get out of jail. If one has a chat with him, everything is okay, no matter what else it is that one does.

• (1350)

Honourable senators, I accept the leader's indication that the minister told him that he took the step of recusing himself in December of last year. However, we now hear from other sources that, indeed, it was just this past week that such a letter had been sent or conversation had taken place.

The Leader of the Government in the Senate has suggested that the recusal happened in December. I am unsure of the process and mechanics of recusal. What happens after the minister recuses himself? Is there any method of checking the date that would have taken place? Was it before Mr. Pratt became a minister of the Crown or after?

Senator Austin: Honourable senators, December 13 is the day following Mr. Pratt's swearing in as a minister. Several weeks ago, in response to a question from Senator Forrestall, I advised the chamber that Minister Pratt had asked Minister Guarnieri to act in all matters relating to the question of accommodation of the Department of National Defence.

Further to Senator Forrestall's questions of yesterday and the day before, I made inquiries of the Department of Public Works and have some information for the honourable senator. The Department of Public Works advises that they are in the process of negotiating agreements for office space in the national capital area. It is their role to support government departments by providing them with productive workplaces of the best value to be found for the Crown.

There are three causes driving the government's increasing requirements for space in the national capital area: First, the inventory of office space has aged and several buildings are now in need of major renovations; second, office space is required to replace leases that are expiring; and third, office space is required to accommodate the evolving needs of the Government of Canada.

With respect to the DND Headquarters issue, the Department of Public Works advises me that analysis has been undertaken on the JDS Uniphase campus to include DND, among other potential government users. They are conducting that analysis at the present time, but there is no arrangement between the Department of Public Works and any other party at this time with respect to the JDS Uniphase premises.

Senator Forrestall: Honourable senators, have discussions taken place between the Department of National Defence or the Government of Canada through Public Works Canada with officials of the City of Ottawa regarding the current National Defence Headquarters, and, in particular, its use as social housing? Have any discussions taken place in that respect? Was the Minister of National Defence involved in any of those discussions?

Senator Austin: Honourable senators, I have made inquiries with respect to the first part of the honourable senator's question and have not received a response as yet. While I have grave doubts that the Minister of National Defence was involved, I will ask the specific question.

PUBLIC WORKS AND GOVERNMENT SERVICES

SPONSORSHIP PROGRAM— RESPONSIBILITY FOR MISMANAGEMENT

Hon. Marjory LeBreton: Honourable senators, *The Toronto Star*, which has long been known for its unwavering support of the Liberal Party, does smell a rat when it looks at the adscam scandal. An editorial from yesterday, May 11, poses an interesting question that perhaps the Leader of the Government in the Senate can answer. It reads:

Who was minding the taxpayers' store if civil servant Chuck Guité and advertising executive Jean Brault were, as the RCMP charge, looting the shelves?

That is a good question. Perhaps the Leader of the Government in the Senate can provide an answer for us and *The Toronto Star*.

Hon. Jack Austin (Leader of the Government): Honourable senators, as Senator LeBreton knows, that question is extant. Processes are underway, the inquiry by Mr. Justice Gomery

among them, to determine whether anyone holding political office had any responsibility for the direct mismanagement or malfeasance of this file.

With respect to generic political responsibility, of course, there is a minister at the head of every department.

Senator LeBreton: We just had a preview of the answer we will hear on the campaign trail.

Honourable senators, so far, the former Prime Minister has refused to take responsibility, although at one point he mentioned a few million dollars being stolen. The current Prime Minister has refused to take responsibility, even though as Vice-President of the Treasury Board and as senior Quebec minister he ought to have known what was going on. No former Public Works Minister has come forward to accept responsibility, even though Chuck Guité reported directly to them.

Meanwhile, the House of Commons committee that is trying to get to the bottom of this scandal is being shut down. Could the Leader of the Government advise the Senate and the Canadian public why not one person is willing to come forward and accept responsibility for turning a blind eye to contracting abuses that went on in Communications Canada and Public Works Canada?

Senator Austin: Honourable senators, that is a political argument and I think we will just leave it as a political argument.

HEALTH

BRITISH COLUMBIA— DETECTION OF AVIAN INFLUENZA DEMISE OF DUCK AND GEESE CARRIERS

Hon. Wilbert J. Keon: Honourable senators, I have a question for the Leader of the Government in the Senate regarding the H5 avian influenza strain in B.C.

The H5 strain of avian flu has been detected among ducks and geese on a farm in British Columbia's Fraser Valley. Until now, the type of avian flu found in British Columbia's outbreak has been deadly to poultry only and posed no serious human health risk. While this particular H5 strain may not be the same strain that jumped species and killed 23 people in Thailand and Vietnam earlier this year, authorities say it will be two days before it can be identified. A school neighbouring the farm has been shut down as a precaution. Could the Leader of the Government in the Senate tell us exactly what is happening with the ducks and geese involved? There does not seem to be any information about them.

Hon. Jack Austin (Leader of the Government): Honourable senators, at this moment I have only the most general of information for Senator Keon, which is to the effect that the Canadian Food Inspection Agency is closely monitoring the situation and has ordered the destruction of ducks and geese that appear to have some strain of avian flu. I am advised that it is not yet clear from scientific analysis which exact strain has infected this aquatic bird flock, but the information should be available very soon — within a day or two.

To anticipate a possible question from Senator Keon, the degree of risk to humans is not known, but it is believed to be quite low. The provincial government has taken the step of closing an elementary school that is located adjacent to the duck and geese farm.

• (1400)

Senator Keon: Would the Leader of the Government know if there is any cross-infection in wild species, or is this just on the farm? That is a pretty tough question. I tried to find out myself before I asked it.

Senator Austin: That is one of the questions being investigated. Whether officials can come to a definitive conclusion, remains to be seen.

These flocks of aquatic ducks and geese are out in the open and free to intermingle with wild birds, which could be a possible source of the infection.

JUSTICE

FIREARMS REGISTRATION PROGRAM— REPORT ON OPERATIONAL ALTERNATIVES

Hon. David Tkachuk: Honourable senators, the Associate Minister of National Defence, the Honourable Albina Guarnieri, recently completed a cross-country tour charged by the Prime Minister with finding plausible proposals to deal with problems surrounding the firearms registration program. The contents of her secret report to the Prime Minister — a report generated at taxpayers expense — have been leaking into public view in dribs and drabs through the media. Does the government plan to release the report in its entirety? If so, can the Leader of the Government give an indication whether that release will be in the near future and whether the Minister of Public Safety and Emergency Preparedness will provide a response at that time?

Hon. Jack Austin (Leader of the Government): Honourable senators, I can provide a partial answer at this moment. Reports prepared for cabinet are not normally released and are always paid for by the public treasury. To suggest that the taxpayers are being treated in an unfair manner by the preparation of reports for government decisions I am sure was not the specific intention of the Honourable Senator Tkachuk.

An announcement date with respect to the government's policy on gun control has not been issued.

Senator Tkachuk: I definitely did indicate that a report by a minister on a cross-country tour, one that is being leaked to the media, should be made public.

One of the solutions proposed by the minister is that control of the program be transferred to the RCMP. Responsibility for that program was initially assigned to the Minister of Justice but was transferred to the Solicitor General because, according to the Department of Justice, the move allows the program to benefit from the operational expertise of the Solicitor General of Canada

and would make the program more effective and less expensive. The Solicitor General at that time, the Honourable Wayne Easter, stated:

Now that the program is moving from development to ongoing management, it would be the appropriate time to integrate it into my overall portfolio responsibilities.

It seems we have three official languages in Canada.

Can the Leader of the Government in the Senate inform us if the proposal to transfer the firearms registry directly to the RCMP but still within the Solicitor General's portfolio is being given favourable consideration?

Senator Austin: I cannot advise honourable senators on what is taking place with respect to that specific question, which is a matter of cabinet confidence.

Senator Tkachuk: Honourable senators, we are having an important public policy debate. The government itself has already put the policy out into the public record. I am not making this up. The government itself has stated that it wants to do something like this. Is the proposal to transfer the firearms registry directly to the RCMP but still within the Solicitor General's portfolio being given favourable consideration? I am not asking for the final decision. However, if there is some favourable consideration, we can have a debate in this place as to whether that is a good thing, or are parliamentarians not considered important enough to consult with on this issue?

Senator Austin: Honourable senators, at the risk of revisiting Political Science 100, the process works like this: Governments consult with the public; departments consider the options; recommendations are made to the cabinet; cabinets have discussions; the cabinet announces a policy; and legislators debate the policy.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour to present two delayed answers to oral questions. The first is in response to an oral question posed on April 29 by Senator Gauthier concerning Air Canada's legal obligation. The second is in response to a question posed by Senator Rivest on February 19 regarding the appropriateness of the RCMP investigating Via Rail's involvement in the sponsorship program after senior officers received free passage on Via Rail in 1998.

OFFICIAL LANGUAGES

POLICY OF AIR CANADA

(Response to question raised by Hon. Jean-Robert Gauthier on April 29, 2004)

ANSWER: THE MINISTER OF TRANSPORT ADVISES, THAT:

These questions were raised during Question Period in the House of Commons on April 28, 2004.

The Honourable Minister of Transport reiterated at that time that this Government continues to expect Air Canada to meet all its obligations under the *Air Canada Public Participation Act* and other applicable legislation.

As well, on that same day, the Minister responsible for Official Languages stated that Air Canada must respect its linguistic obligations and act in complete compliance with the relevant provisions of the *Official Languages Act*.

As for whether the company's head office will remain in Montreal, Section 6(1)(e) of the *Air Canada Public Participation Act* states that Air Canada's head office is to be situated in the Montreal urban community and, as indicated, this Government continues to expect Air Canada to meet all its obligations under this Act.

SOLICITOR GENERAL

ROYAL CANADIAN MOUNTED POLICE— POSSIBLE BREACH OF CODE OF ETHICS— INVOLVEMENT IN SPONSORSHIP PROGRAM

(Response to question raised by Hon. Jean-Claude Rivest on February 19, 2004)

The RCMP has confirmed that complimentary VIA Rail transportation was offered to its senior officers to travel from Québec City to Montréal to attend the RCMP "C" Division's 125th Anniversary Ball held on June 13th, 1998. The Commanding Officers were in Québec City to attend their annual conference. The majority of Commanding Officers had alternate arrangements for transportation, however three officers and their spouses accepted the offer and were provided with complimentary transportation from Québec to Montréal on VIA Rail to attend the Anniversary Ball.

After a review of the available information, the RCMP has determined that VIA Rail was a sponsor of the RCMP "C" Division's 125th Anniversary Ball and the offer of complimentary tickets was in compliance with existing RCMP policy on Sponsorship. The Anniversary Ball was a RCMP community relations event that supported a local charity.

The RCMP accepts the overall findings of the Auditor General's Report on the RCMP's management of the its 125th Anniversary activities and has implemented measures and controls to ensure policies, procedures and regulations are clearly understood, monitored and enforced within the RCMP. At the request of the RCMP, the Sûreté du Québec has agreed to assume responsibility for that portion of the criminal investigation that touches upon entities involved with the RCMP's 125th celebrations.

ORDERS OF THE DAY

CANADA ELECTIONS ACT INCOME TAX ACT

BILL TO AMEND—THIRD READING— MOTION IN AMENDMENT—VOTE DEFERRED

On the Order:

Resuming debate on the motion of the Honourable Senator Mercer, seconded by the Honourable Senator Munson, for the third reading of Bill C-3, to amend the Canada Elections Act and the Income Tax Act.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I think we are familiar now with the purpose of this bill; therefore, bear with me if I repeat some of its salient features. There are implications to this bill that I would like to develop.

As honourable senators know, Bill C-3 is in response to a decision of the Supreme Court that struck down certain parts of the Canada Elections Act, in particular that which fixed a threshold of 50 candidates for a political party to be registered and recognized between elections.

The Supreme Court suspended the declaration of unconstitutionality for a period of 12 months ending June 27 of this year to give Parliament time to bring the act into conformity with the court's interpretation of the Constitution.

Following the testimony of witnesses at the Standing Senate Committee on Legal and Constitutional Affairs, many there were left with a number of unresolved issues that I had hoped could be resolved by proposing amendments in committee. I was unable to do so as the committee never issued, contrary to custom, a notice of meeting indicating on what day clause-by-clause consideration would take place.

This may sound technical to some, but let me be allowed to elaborate on the significance.

Committee clause-by-clause examination of a bill is a vital stage in its study. It is a point in the proceedings at which members are able to propose amendments that can arise from the testimony of the witnesses.

In the normal course of events, as has been our custom to allow time for reflection on the testimony, clause-by-clause consideration of a bill should not occur on the same day that witnesses have been heard. This is both to enable those present to give full and proper consideration to the testimony and to provide an opportunity to formulate and articulate amendments in response if such are found useful.

I recognize that events may conspire to limit the time available for the consideration of testimony and there may be rare occasions when it is not possible to defer or delay clause-by-clause consideration. Whatever the case, in my mind it is both imprudent and improper to proceed to clause-by-clause consideration when there has been no public notice to this effect.

In this case, there was no public notice issued at any time indicating when clause-by-clause consideration of the bill would take place. In the unrevised transcript of the meeting that took place the night before, clause-by-clause consideration was moved by Senator Mercer and the chair did say that it was a possibility. This being the case, the public meeting notice issued ought to have included clause-by-clause consideration as a final item of business the following day. Just because it is on the notice, by the way, does not compel a committee to proceed with it. Indeed, the notice of the night before for the Standing Senate Committee on Legal and Constitutional Affairs had stated that the committee would proceed to an in camera consideration of a draft report on another bill, but the meeting did not so proceed due to a conflict of another committee meeting in the same room starting at 7 p.m.

• (1410)

Thus it was that the only senators who could possibly have been aware that Bill C-3 might proceed to clause-by-clause consideration the following day were those present, those few who were listening to the proceedings, or any who might have come into contact with those individuals. Only a handful was aware of a possibility that was not found important enough to be included in a notice.

I regret that the majority on the committee chose to disregard the traditions which govern the effective operation of this place. That is their choice, although it certainly appears to run counter to the intention of the Prime Minister with regard to democratic reform and the empowerment of individual parliamentarians. Sadly, this will not be the first time that electioneering promises have been sacrificed as a matter of expedience. I fear that it will not be the last.

However that may be, there is still the possibility that any time which might have been gained through this unfortunate trammelling upon the expectations not only of senators but also of the public at large, which we here seem to disregard all too often, may be lost as we end up considering amendments at the current stage before the entire chamber rather than in the confines of the committee. Observations which might have been appended and which might have sufficiently addressed the concerns arising from the testimony in light of the sunset clause contained in Bill C-3 remain unwritten.

It was a choice that was made. It was within the power of the majority on the committee to make that choice. It remains to be seen if it was a wise choice.

Returning to the matter at hand, the testimony raised a number of concerns about this bill. I do not propose to address them all fully in the time allotted me, although I hope others may choose to develop them more fully.

First, the decision of the Supreme Court of Canada appears to call into question the use of thresholds in relation to political parties. This is most clearly the case for the number of candidates that a party is required to field in order to achieve recognition as a political party under the Canada Elections Act. The court stated that a threshold of 50 was too high — in fact, any threshold was unconstitutional — and that the arguments presented by the

government in favour of one were not at all convincing. This being the case, it is a matter of some curiosity that this bill nonetheless contains a threshold. It requires that a party field at least one candidate. One is a low number, the lowest you can get, but it is still a threshold. A party with one candidate can achieve recognition, a party without one cannot. Is there in principle a difference between this and a party with 50 candidates achieving recognition but a party with only 49 not? In each case, the difference in the number of candidates is one.

So it is that the bill does not appear to achieve its aim of complying with the ruling of the Supreme Court. Frankly, it is doubtful that anyone would challenge this low threshold of one, but I do not see how it can be said that such a challenge would be unsuccessful, if the arguments already accepted by the Supreme Court against a threshold of 50 were to be repeated before the same court.

The second problem raised is that eliminating thresholds with regard to the number of candidates might pose similar difficulties for the thresholds for receiving political financing from the government, which are contained in Bill C-24, commonly known as the Elections Financing Bill. It specifies that political parties are required to obtain 2 per cent of the national vote to receive funding, or 5 per cent of the valid votes cast in the electoral districts in which the party ran a candidate.

Witnesses indicated that if Bill C-3 is passed they plan to launch similar legal action against those financing limits, those thresholds. If it turns out that thresholds of any kind are not permitted, they may well succeed.

The final problem which I intend to address was raised during the course of the testimony by the Chief Electoral Officer. Initially, the committee was given to understand that it would be possible to implement the provisions of Bill C-3 within, to quote him, "a matter of hours." However, upon further reflection, Mr. Kingsley said the following, and I quote from the unrevised transcript of the meeting held on April 29. He said:

Madam senator, your question leads me to reconsider my answer about being ready to implement this within hours. If I have to produce guidelines or criteria, I have not even begun to do this. If I have to do this before I say that I am ready to implement this statute, then I can tell you I will not be ready by June 27 most probably — that is, if your question leads me to the conclusion that I must have these things.

On the other hand, if it is just a matter of changing the forms, changing my Web site, eliminating references to what constitutes a political party and changing them to this one in the different literature I have, those are things that we can flip over in a matter of hours.

However, if I have to develop those things before, then it is a theoretical discussion about whether or not I will be doing it before June 27, I most probably will not, unless we focus just on that.

Earlier in his testimony, the Chief Electoral Officer expressed more general reservations about the coming-into-force provision contained in clause 27 of the bill when he said:

The point that I tried to make, and that is highlighted by the earlier question that you raised about when would I be able to do this, once again I will be called upon to make a decision about implementing. That has a direct impact on parties immediately, the moment this is done. If there were a fixed date in the statute, then that would be Parliament that has decided that, and not the Chief Electoral Officer called upon to do that. It is that type of judgment, which I am ready to exercise, but which is not always easy to make. That sometimes leads to an apprehension that judgments are being put into the hands of an officer of Parliament that might best remain in the hands of Parliament.

The normal procedure with respect to amendments to the Canada Elections Act is that they come into force six months after Royal Assent, or if the Chief Electoral Officer has indicated that the necessary preparations have been completed and has so indicated by publication of notice in the *Canada Gazette*. Obviously, this provision is not applicable here and, as the Chief Electoral Officer has noted, he is not at all comfortable with taking a division which he quite properly pointed out "might best remain in the hands of Parliament."

Bearing in mind, honourable senators, the concerns clearly expressed by the Chief Electoral Officer, I think it is appropriate for this bill to be amended to provide an exact time for these provisions to come into force, and that the time be determined by Parliament itself, not by one of its officers.

MOTION IN AMENDMENT

Hon. John Lynch-Staunton (Leader of the Opposition): Accordingly, I move, seconded by Senator Kelleher:

That Bill C-3 be not now read a third time but that it be amended in clause 27, on page 14, by replacing lines 30 to 36, with the following:

"comes into force on June 27, 2004."

The Hon. the Speaker: Are there honourable senators who wish to speak to the amendment or is the house ready for the question?

Hon. Senators: Question!

The Hon. the Speaker: Will those honourable senators in favour of the motion in amendment please say "yea"?

Some Hon. Senators: Yea.

The Hon. the Speaker: Will those honourable senators opposed to the motion in amendment please say "nay"?

Some Hon. Senators: Nay.

The Hon. the Speaker: I believe the "nays" have it.

And two honourable senators having risen:

The Hon. the Speaker: Call in the senators.

Hon. Marjory LeBreton: Pursuant to rule 67(1), I ask that the vote be deferred until tomorrow at 5:30 p.m.

The Hon. the Speaker: The vote on the motion in amendment will take place tomorrow, Thursday, at 5:30 p.m. The bells to call in the senators will ring at 5:15 p.m.

BILL TO CHANGE NAMES OF CERTAIN ELECTORAL DISTRICTS

THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Smith, P.C., seconded by the Honourable Senator Hervieux-Payette, P.C., for the third reading of Bill C-20, to change the names of certain electoral districts.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, this bill is at third reading. Yesterday, we heard some remarks by Senator Smith. I have studied his remarks. I think that all that needs to be said on the bill has been said. We are probably ready for a determination of the house's wish.

• (1420)

The Hon. the Speaker: Are honourable senators ready for the question?

Hon. Senators: Question!

The Hon. the Speaker: It was moved by the Honourable Senator Smith, seconded by Honourable Senator Hervieux-Payette, that this bill be read a third time.

Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read third time and passed.

COMPETITION IN THE PUBLIC INTEREST

INQUIRY—DEBATE ADJOURNED

Hon. Marcel Prud'homme rose pursuant to notice of March 11, 2004:

That he will call the attention of the Senate to the Sixth Report of the Standing Senate Committee on Banking, Trade and Commerce entitled: *Competition in the Public Interest: Large Bank Mergers in Canada*, tabled in the Senate on December 12, 2002.

He said: Honourable senators, I will speak on this matter tomorrow, in case it is the last day, so that colleagues can go to committees earlier.

On motion of Senator Prud'homme, debate adjourned.

The Senate adjourned until Thursday, May 13, 2004, at 1:30 p.m.

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Thursday, May 13, 2004

—◆—
THE HONOURABLE DAN HAYS
SPEAKER



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THE SENATE

Thursday, May 13, 2004

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers

SENATORS' STATEMENTS

THE LATE HONOURABLE ERIC W. KIERANS, P.C., O.C.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, this morning, many Canadians from all walks of life joined together to pay a final tribute to a remarkable Canadian, Eric Kierans. Most Canadians knew him best, along with Dalton Camp and Stephen Lewis, for his memorable weekly participation in Peter Gzowski's CBC program *Morningside*, too many years ago.

Fortunately, along with many privileged others, I also knew him as a businessman, an economist, a teacher, the head of a business school, the head of a stock exchange, a provincial politician and a federal politician. Whatever his interest at the time, one characteristic dominated all others, one which is found too rarely these days: that of speaking his mind, clearly, forcefully, and without equivocation.

Yes, he had a stubborn streak but, more to the point, he demonstrated an intellectual rigour matched by few others. Those he challenged, be it René Lévesque or an investment house, student or elector, knew that however they were challenged in return faced a worthy and fair adversary because his priority was, first and foremost, his community, his province and his country; never himself. Seeking public office was never an end in itself, only an opportunity to serve others.

In his obituary, it is said of the *Morningside* participants:

A role for the state, for compassion and for humanity infused each.

Nothing could be truer of Eric Kierans. May he rest in the peace he so richly deserves.

Hon. Senators: Hear, hear!

[Translation]

Hon. Lise Bacon: Honourable senators, on Monday, at the age of 90, the Honourable Eric William Kierans, one of those behind Quebec's Quiet Revolution, passed away. Eric Kierans was one of the prime architects of the changes that altered the face of Quebec in the 1960s. He was recognized and respected for his great intelligence, his inexhaustible energy and his contagious enthusiasm.

[English]

He was a scholarship student. He made a fortune as a businessman and, in 1960, became president of the Montreal Stock Exchange. When Jean Lesage, the premier of Quebec,

offered him a position in government in 1963, he accepted to be in the cabinet as Minister of Revenue. In the years that followed, he would be the first anglophone to play a very influential part in Quebec politics.

[Translation]

Eric Kierans was a unique human being. Although he came from a business background, he would defend progressive measures and social reforms when he moved into the political realm.

He became good friends with René Lévesque, a progressive member of the Lesage government. He was convinced that the state should provide every citizen with a good standard of living and quality health care. He was one of the precursors of Quebec's economic emancipation, in particular with the creation of a public retirement fund for Quebecers.

He faithfully attended classes to improve his French. He was passionate about Quebec and convinced of its importance within Canada. In 1967, while president of the Quebec Liberal Federation, he put all his weight behind rejecting the sovereignty-association proposal promoted by René Lévesque. He always remained a staunch federalist.

[English]

In 1968, he ran for the leadership of the Liberal Party of Canada against Pierre Elliott Trudeau and was defeated. Nevertheless, he was made Postmaster General and Minister of Communications in the Trudeau government. He stayed in federal politics for four years and then left to teach at McGill University.

A man of principle and honesty, he was always skeptical of unchallenged authority. He believed that, in a federation, you could not run everything from the centre. He advocated a strong role for the provinces and for local communities in our federation. In his memoirs, called *Remembering*, he said he was:

...a federalist, not in the sense that the word now seems to command — one who believes in the domination of Ottawa over the provinces — but in the old sense of one who supports the union of disparate provinces in a wider federation, for the greater good of all.

[Translation]

Today I salute the courage and determination of a great Quebecer and a great Canadian, devoted to the ideals of economic and social justice. The principles and honesty that guided him throughout his career must now, more than ever, serve to inspire and guide our political commitment.

[English]

CANADIAN COUNCIL OF PROFESSIONAL ENGINEERS

Hon. Mac Harb: Honourable senators, as a professional engineer, I am pleased to rise today to acknowledge the work of the Canadian Council of Professional Engineers, which is currently holding its annual general meeting in Prince Edward Island. The council is the national organization of the provincial and territorial bodies that license Canada's 160,000 professional engineers.

Engineers, lead by the council, are at the forefront among licensed professionals to develop new frameworks that streamline the recognition of foreign credentials. The council is also planning practical solutions for infrastructure renewal.

In addition to the significant contributions that improve and promote public safety and spur innovation, the council and the engineering profession are dedicated to promoting engineering and honouring excellence within the profession.

The council has been a strong supporter and financial contributor to the Canadian Engineering Memorial Foundation, which each year rewards six extraordinary women in engineering studies with scholarships to pursue their academics. The foundation was created as a means to honour the memory of the 14 women from École Polytechnique whose contributions to their country ended tragically on December 6, 1989.

Along with its involvement with the memorial foundation scholarships, the council will also be hosting its annual Canadian Engineers' Awards Gala as part of its annual general meeting activities. The awards recognize excellence in engineering in a variety of categories.

I wish to acknowledge and to congratulate the recipients of both the 2004 Canadian Engineers' Awards and the Canadian Engineering Memorial Foundation scholarships. On behalf of my colleagues in the Senate, I thank the Canadian Council of Professional Engineers for their continued dedication in the service of Canadians and in the promotion and advancement of engineering in our country.

• (1340)

ARRIVAL OF FRENCH COLONISTS IN NORTH AMERICA

FOUR HUNDREDTH ANNIVERSARY

Hon. Wilfred P. Moore: Honourable senators, on April 7, 1604, the ship *Le Don de Dieu*, under the command of Sieur de Monts, set sail for North America from Le Havre, France. De Monts had been commissioned by Henry IV, King of France, to establish a new colony in Acadia. Sailing with De Monts as cartographer and geographer was Samuel de Champlain. Born in Brouage, France, in 1567, Champlain was a talented and determined young adventurer. In 1599, he visited the Caribbean and Mexico. In the summer of 1603, he sailed with de Monts to Tadoussac in New France, where he explored the Saguenay River and the

St. Lawrence River as far as Hochelaga, or Montreal. This 1604 passage was his second of many voyages between France and North America.

Champlain not only drew maps and illustrations, he kept comprehensive journals. He spent most of the next 26 years living and exploring in Acadia, Quebec, today's New England, Upper New York State and Ontario. When one reflects on the instruments then available to him, the accuracy of his maps and charts is remarkable, as will appear on reference to The Publications of the Champlain Society. Champlain well earned the title of the "Father of New France." In 1608, he founded Quebec City, where he died on Christmas Day, 1635, at 68 years of age.

On May 8, 1604, Champlain records what is to become the beginning of French attempts at colonization in Acadia.

...we sighted Cape La Hève, to the eastward of which lies a bay containing a good many islands, covered with firs, and adjoins the coast of Acadia, and lies in latitude 44° 5', distant 85 leagues, on an east-north-east line from Cape Breton.

The Lunenburg County names, Cape LaHave and LaHave are, of course, still used to this day. De Monts and Champlain named this first conspicuous cape seen in Acadia, an abrupt cliff 107 feet high, after the last prominent cape they saw when leaving home. That was Cap de la Hève, near Le Havre, the place of their embarkation from France.

Le Don de Dieu came to anchor in Green Bay. Champlain drew a map of what he called Port de La Hève, which shows soundings of the bay, where the ship lay at anchor, the location and details of Mi'Kmaq villages, and gave names to places such as Cape LaHave and Petite Rivière that are still in use today.

Last Saturday marked the four hundredth anniversary of Champlain's sighting and arrival in Acadia. That national historic event was recognized with the Festival Champlain, a celebration and re-enactment held at that point of landfall and first anchorage, which was organized by the South Shore 2004 Celebration Association, a volunteer group chaired by Ms. Margaret A. Forbes. This event marked the arrival of the first French settlers to Canada, and it also celebrated the Mi'Kmaq people who welcomed them ashore.

We thank the South Shore 2004 Celebration Association for organizing this living history celebration, thereby sharing with all Canadians this important event in the history of today's Nova Scotia and Canada.

CONTRIBUTION TO WORLD HEALTH ORGANIZATION HIV/AIDS INITIATIVE

Hon. Yves Morin: Honourable senators, two days ago I made a statement in the chamber on the remarkable contribution of the Canadian government to the World Health Organization AIDS initiative following Prime Minister Paul Martin's announcement that Canada will contribute \$100 million to the fund. I also stated that this generous contribution comes at a very propitious time, as the Senate is now considering Bill C-9.

Yesterday, to my pleasant surprise, there were two additional contributions to this worthy cause. The government has indeed announced that Canada will extend its contribution to the global fund to fight AIDS, tuberculosis and malaria with an additional \$70 million, effectively doubling our annual contribution.

Some Hon. Senators: Hear, hear!

Senator Morin: In addition, Health Minister Pierre Pettigrew announced that funding for the Canadian Strategy on AIDS will double over the next five years to \$84.4 million annually. This funding builds on the success of the Canadian Strategy on AIDS by strengthening communities to fight the diseases and the stigma and discrimination that fuel their spread.

This morning, the Canadian AIDS Society stated that this funding will provide room for eight service organizations to implement programs and projects that will not only prevent further Canadians from being infected but also increase the quality of care and support for people infected by AIDS.

[Translation]

Honourable senators, I am proud of our government's contribution to the AIDS problem both in Canada and in developing countries. These initiatives and public health decisions already made for our country show that the Paul Martin government has developed policies that improve the level of health for populations that need it the most.

[English]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I should like to draw your attention to the presence in our gallery of His Excellency Ali Aujali, Chargé d'affaires of Libya. Mr. Aujali will be leaving Ottawa to assume his new post as head of the Libyan Diplomatic Mission in the United States shortly. He is also with the Tunisian Ambassador to Canada, Mohamed Saad. Welcome to the Senate of Canada.

Honourable senators, I also draw your attention to the presence in our gallery of Corporal Richard Newman of the Royal Canadian Regiment, 3rd Battalion. Corporal Newman is from New Brunswick. He has just returned from Kabul, Afghanistan, where he suffered injuries in the course of his service there. He is accompanied by our parliamentary colleague in the other place, Andy Savoy. Welcome to the Senate of Canada.

Hon. Senators: Hear, hear!

ROUTINE PROCEEDINGS

PATENT ACT FOOD AND DRUGS ACT

BILL TO AMEND—REPORT OF COMMITTEE

Hon. Consiglio Di Nino, Deputy Chair of the Standing Senate Committee on Foreign Affairs, presented the following report:

[Senator Morin]

Thursday, May 13, 2003

The Standing Senate Committee on Foreign Affairs has the honour to present its

FOURTH REPORT

Your Committee, to which was referred Bill C-9, *to amend the Patent Act and the Food and Drugs Act (The Jean Chrétien Pledge to Africa)*, has, in obedience to the Order of Reference of Tuesday, May 11, 2004, examined the said bill and now reports the same without amendment.

Respectfully submitted,

CONSIGLIO DI NINO
Deputy Chair

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

Hon. Eymard G. Corbin: Perhaps His Honour would enquire as to whether the chamber is disposed to proceed to third reading of Bill C-9 later this day.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, on behalf of the official opposition in the Senate, we concur that the house should proceed with Bill C-9 now that we have the report from the committee, and we concur in the request of our colleague, Senator Corbin.

Hon. Senators: Hear, hear!

The Hon. the Speaker: Leave is granted.

Senator Corbin, do you wish to move that the bill be placed on the Orders of the Day for consideration later this day?

Senator Corbin: I so move, Your Honour.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, because there are strong feelings about this bill, I should like to see Senator Kinsella's name registered as seconder of the motion.

On motion of Senator Corbin, with leave to the Senate and notwithstanding rule 58(1)(b), bill placed on the Orders of the Day for third reading later this day.

BUDGET IMPLEMENTATION BILL, 2004

REPORT OF COMMITTEE

Hon. Lowell Murray, Chairman of the Standing Senate Committee on National Finance, presented the following report:

Thursday, May 13, 2004

The Standing Senate Committee on National Finance has the honour to present its

NINTH REPORT

Your Committee, to which was referred Bill C-30, to implement certain provisions of the budget tabled in Parliament on March 23, 2004, has, in obedience to the Order of Reference of Monday, May 10, 2004, examined the said bill and now reports the same without amendment.

Respectfully submitted,

LOWELL MURRAY
Chairman

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

• (1350)

Senator Prud'homme: Now!

Hon. Joseph A. Day: Honourable senators, with the consent of the chamber, I would ask that this bill be placed on the Orders of the Day for consideration later this day. I would be content to have Senator Kinsella second this motion as well!

The Hon. the Speaker: Is leave granted, honourable senators?

Senator Lynch-Staunton: Do not press your luck. We do not object to leave later this day, but we will not identify ourselves with the seconding in this matter.

Senator Prud'homme: Honourable senators, if there is a problem, I will second it!

The Hon. the Speaker: Leave is granted. I will allow the Honourable Senator Day to move his motion.

On motion of Senator Day, with leave to the Senate and notwithstanding rule 58(1)(b), bill placed on the Orders of the Day for consideration later this day.

INTERNATIONAL TRANSFER OF OFFENDERS BILL

REPORT OF COMMITTEE

Hon. George J. Furey, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, May 13, 2004

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

TENTH REPORT

Your Committee, to which was referred Bill C-15, to implement treaties and administrative arrangements on the international transfer of persons found guilty of criminal offences, has, in obedience to the Order of Reference of Wednesday, May 5, 2004, examined the said bill and now reports the same without amendment.

Respectfully submitted,

GEORGE FUREY
Chair

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

On motion of Senator Christensen, with leave of the Senate and notwithstanding rule 58(1)(b), bill placed on the Orders of the Day for consideration later this day.

[Translation]

CRIMINAL CODE
CANADA EVIDENCE ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-12, to amend the Criminal Code (protection of children and other vulnerable persons) and the Canada Evidence Act.

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

On motion of Senator Rompkey, bill placed on the Orders of the Day for second reading two days hence.

[English]

CANADA TRANSPORTATION ACT

BILL TO AMEND—FIRST READING

Hon. Tommy Banks presented Bill S-18, to amend the Canada Transportation Act (running rights for carriage of grain).

Bill read first time.

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

Senator Banks: Honourable senators, I ask leave of the Senate, notwithstanding the rules and our normal procedure, for second reading of this bill at the next sitting of the Senate.

The Hon. the Speaker: Is leave granted, honourable senators? Normally, two days' notice is required.

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, we need an explanation for this request.

Senator Banks: Honourable senators, I wish to speak to this bill before any interruption of the house and the house's business. Because of commitments, I might not be able to be here on Monday or Tuesday. I would like honourable senators to hear what I have to say about this bill. It is as simple and inconsequential as that.

Senator Lynch-Staunton: No.

The Hon. the Speaker: Leave is not granted, Senator Banks.

Senator Banks: I then move that this bill be given second reading two days hence.

On motion of Senator Banks, bill placed on the Orders of the Day for second reading two days hence.

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

INTER-PARLIAMENTARY FORUM ON
TRANSATLANTIC DIALOGUE, APRIL 18-19, 2004—
REPORT TABLED

Hon. B. Alasdair Graham: Honourable senators, I have the honour to table, in both official languages, the report of the Inter-parliamentary Forum on Transatlantic Dialogue, of the Parliamentary Assembly of the Council of Europe, held in London, United Kingdom, from April 18 to 19, 2004.

[Translation]

INTER-PARLIAMENTARY FORUM OF THE AMERICAS

MEETING OF THIRD PLENARY SESSION,
APRIL 1-3, 2004—REPORT TABLED

Hon. Céline Hervieux-Payette: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian delegation of the Inter-Parliamentary Forum of the Americas to the third plenary session, held in Valparaíso, Chile, from April 1 to 3, 2004.

I take this opportunity to thank my honourable colleagues for the intensive work they have accomplished, while at the same time deploring the absence of the Leader of the Opposition, who, unfortunately, could not attend.

[English]

CANADA-CHINA LEGISLATIVE ASSOCIATION

SIXTH BILATERAL MEETING,
SEPTEMBER 19-29, 2003—REPORT TABLED

Hon. Joseph A. Day: Honourable senators, I have the honour to table, in both official languages, the report of the Canada-China Legislative Association concerning the sixth bilateral meeting held in Vancouver, Ottawa, Montréal, Quebec, Niagara-on-the-Lake and Toronto, Canada, from September 19 to 29, 2003.

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

SECOND PART OF THE 2004 ORDINARY SESSION OF
THE PARLIAMENTARY ASSEMBLY OF THE COUNCIL
OF EUROPE, APRIL 26-30, 2004—REPORT TABLED

Hon. Marilyn Trenholme Counsell: Honourable senators, I have the honour to table, in both official languages, the report of the delegation of the Canada-Europe Parliamentary Association to

the Second Part of the 2004 Ordinary Session of the Parliamentary Assembly of the Council of Europe held in Strasbourg, France, from April 26 to 30, 2004.

QUESTION PERIOD

NATIONAL DEFENCE

POSSIBLE TRANSFER OF HEADQUARTERS— RECUSAL OF MINISTER

Hon. J. Michael Forrestall: Honourable senators, I have more questions about Ottawa housing, traffic and real estate.

We now have on the public record at least three dates on which Minister Pratt recused himself and stood aside from any further discussions respecting the movement of the National Defence headquarters from its present location out to what is known as the JDS Uniphase site.

• (1400)

In light of the minister's spokesman, Darren Gibb, indicating that he wrote a letter about the issue to the Ethics Counsellor just this week, what does the Leader of the Government in the Senate have to say about that, bearing mind the two previous dates that are now in the public domain.

Hon. Jack Austin (Leader of the Government): I thank the honourable senator for his question.

The accurate date for the letter written to the Ethics Counsellor with respect to recusal was December 23, 2003. Yesterday, I said that it was December 13. The note to which I was referring had a typographical error. I am told that the news story about a recent letter is incorrect.

While I am answering the questions of the honourable senator, he asked yesterday whether any discussions had taken place between the Department of National Defence or the Government of Canada through Public Works Canada with officials of the City of Ottawa with respect to the current National Defence headquarters and, in particular, its use as social housing. The answer is that no discussions have been held with the City of Ottawa with respect to the use of the current National Defence headquarters.

Senator Forrestall: I might again ask the minister, just for absolute clarity, whether he would consider tabling the minister's initial and, I gather from what he said, only letter to the Ethics Counsellor, so that it might be a matter of public record.

I am pleased to hear some news with respect to social housing in Ottawa.

Did the minister have occasion to make inquiries regarding traffic involvement? It is a matter of record that Minister Pratt has sought and received extensive assistance with respect to the commuter O-Train line running adjacent to this structure. Have there been any discussions with the federal government respecting other assistance, or is the assistance to be, in fact, the relocation of DND HQ to the JDS Uniphase site?

Senator Austin: Honourable senators, I will inquire on whether there is any collateral activity, if I understand the question of the honourable senator correctly, that would show that the federal government has an interest in the JDS Uniphase property.

As I said yesterday, the Department of Public Works has engaged in an analysis of that property for its potential use as a property for the federal government, but not necessarily for the Department of National Defence.

To answer a bit more fully Senator Forrestall's first question, in addition to Minister Pratt advising the Ethics Counsellor of his intention to recuse himself from the DND headquarters file, which was, as I have said today, done on December 23, 2003, Mr. Pratt, on January 21, 2004, formally advised the Department of National Defence of his decision to recuse himself from all dealings with the JDS Uniphase file.

I am uncertain whether this letter of December 23 is the subject of a confidential communication. If it is available as a public document, I certainly will make it available.

Senator Forrestall: Certainly, the original letter would be a matter for public disclosure. I appreciate that additional information.

REPLACEMENT OF SEA KING HELICOPTERS AWARDING OF CONTRACT

Hon. J. Michael Forrestall: Inasmuch as we are about to conclude my tenth Parliament and enter my eleventh, may I ask a question which I first raised in this edifice, the Parliament of Canada, some nine Parliaments ago? When will we get replacements for the Sea King helicopters? I asked it almost precisely in those words a long time ago.

Senator Tkachuk: They do not care.

Senator Forrestall: It was the winter of 1966-67 to be precise. We are now in the spring, if it ever comes, of 2004. It is about time.

Hon. Jack Austin (Leader of the Government): I thank Senator Forrestall for not asking me the question about the Sea Kings too often. I appreciate that very much.

I believe that, in the next Parliament, if not before, we will have a definitive answer about the contract award respecting the Sea Kings, and Senator Forrestall will know better than I how long it will take the manufacturers to produce and deliver the finished product.

I agree with the honourable senator that this replacement is urgent.

Senator Forrestall: I thank the honourable senator for all the information.

THE SENATE

APPOINTMENT OF ETHICS OFFICER

Hon. Donald H. Oliver: Honourable senators, my question is for the Leader of the Government in the Senate. It deals with the question of ethics and the procedure that the government has outlined pertaining to the appointment of a Senate ethics officer.

In a speech delivered in this chamber on Bill C-4 on February 24, the Leader of the Government promised that a list of candidates for the position of ethics officer would be circulated to all senators in this chamber for the purposes of consultation.

Could the Leader of the Government in the Senate please explain why this has not yet occurred, and when the government plans to fulfil this particular promise related to the appointment of the Senate ethics officer?

Hon. Jack Austin (Leader of the Government): Honourable senators, I will refer again to the text of my comments in the Senate before replying to the first part of the honourable senator's question.

The reply to the second part is this matter will proceed with all possible dispatch.

Senator Oliver: The honourable senator said the following on February 24 in the Senate:

... on behalf of the government I now make a commitment that prior to sending the Senate the name of any person to be proposed to the Senate to be a Senate ethics officer, the Leader of the Government in the Senate shall be authorized to consult informally with the leaders of every recognized party in the Senate and with other senators and shall be authorized to submit to the Governor in Council the names of such persons who shall, in the opinion of the Leader of the Government in the Senate, have the favour of the leaders of every recognized party, as well as the support of the majority of the senators on the government side and the majority of the senators on the opposition side.

Bill C-4 was given Royal Assent on March 31. Honourable senators, this is now May 13. The Prime Minister has already nominated an ethics commissioner for the House of Commons, which nomination has to be ratified. Considering this fact, why have we in the Senate yet to hear from the government and from the Leader of the Government in the Senate about the appointment of a Senate ethics officer? Why is the government dragging its heels on this important matter, and why has the consultation process not even commenced?

Senator Austin: Honourable senators, I thank Senator Oliver for reading my comments because I was quite certain that I had not said that I would circulate a list of candidates. The comment he read makes it clear to me I did not say that.

With respect to my statement, I want to repeat to this chamber that a process has been commenced. I am not in a position at this stage to take the Senate any further into the process. I do not believe, and I hope Senator Oliver is not suggesting, that we are not proceeding with due dispatch to deal with this question. Senator Oliver will know from his colleague Senator Di Nino that

discussions with respect to the code of conduct will be continued over the summer. The appointment of an officer requires concurrence, which Senator Oliver has mentioned, but it begins with a dialogue initiated by myself with the Leader of the Opposition and then with other senators.

• (1410)

I do not believe I am in a position to give Senator Oliver more information at this moment.

Senator Oliver: Honourable senators, my real question was: Why has the dialogue or the consultation not begun?

Senator Austin: How does my honourable friend know it has not?

Senator Oliver: Has it? Has the consultation and the dialogue on this important matter for the Senate begun?

Senator Austin: I do not believe it is in the interests of the Senate for me to answer that question.

Hon. John Lynch-Staunton (Leader of the Opposition): Oh dear.

Senator Austin: Do I have your permission?

Senator Lynch-Staunton: To say what? Say whatever you have to say.

Senator Austin: Honourable senators, I am surprised at the reaction I am receiving. However, it appears that I have the agreement of the Leader of the Opposition to say we have had a discussion on the subject.

Senator Lynch-Staunton: Give the substance of the discussion. There was nothing to it. I do not know what we are getting into here. The leader twice, since he has been made minister, has suggested that we should get on to this. Names were mentioned and we have not heard anything since, so what is the problem?

Senator Austin: That is an accurate statement of the facts of the point.

TRANSPORT

AIRLINE INDUSTRY— PAYMENT OF AIR SECURITY TAX

Hon. Michael A. Meighen: I hate to end such an interesting exchange, honourable senators, but I have an important question for the Leader of the Government in the Senate.

Senator Oliver: Another important question.

Senator Meighen: Yes, another important question. Yours was vitally important, this is merely important.

Honourable senators, with the recent federal government decision to spend \$115 million to improve security in our country's ports, Canada's air passenger industry is again asking why air travellers are singled out to pay security fees while users of other forms of transport do not. In a recent paper prepared for

the Canadian Institute of International Affairs on the airline sector, York University economist Fred Lazar argues that the air security fees have "further tilted the competitive playing field against this industry."

When the government decided to reduce the air security tax from its original amount of \$24 to \$12, they seemed to implicitly acknowledge the economically skewing and punitive impact of this tax on air travellers. Could the Leader of the Government in the Senate give us some rationale for maintaining this discriminatory and economically skewed policy relating to Canada's air passenger industry?

Hon. Jack Austin (Leader of the Government): Honourable senators, I am not at all certain that the premise of the honourable senator's question is right. There are two points in reply. The first is that the Canadian air passenger industry has had enormous injections of funds from the taxpayers of this country in the form of facilities, airports, navigation systems, a great entourage of investment about which the road and rail transportation industry has often complained.

Second, I am not sure that there is any basis for comparison of the security issues in protecting our ports, which this chamber has noted time and time again and for which the government is giving the Senate credit as it announces further security programs and the security program at airports in this country. It is a question of which has the greater need at the moment.

Senator Meighen: I do not disagree with the last statement of the honourable senator at all. One must make choices, but here we have \$115 million going to ports, which I do not disagree with and, indeed, I applaud. The fees paid by air travellers are clearly user pay fees, whereas I do not think the \$115 million has anything to do with payment by the users. I believe there is an element of discrimination there. Why are we not asking the users to pay more in all instances?

Senator Austin: Honourable senators, security at ports is a combination of private sector and government contribution. Very substantial steps have been taken by port authorities and the users of ports toward improved security, which is now being enhanced by an additional government injection of support. As Senator Meighen may well know, it is vital for Canada's ports to remain competitive with the continental alternatives to the use of our ports. In the United States, an enormous and direct contribution for the full security package is made under provisions enacted by Congress. With respect to air passengers, there are all sorts of incidental security costs that are not borne by user fees.

Senator Meighen: Honourable senators, surely the leader is not suggesting that the airline industry is not contributing to security just like the maritime industry is contributing to port security. One cannot claim that in the air industry all the support is coming from the users and none from the industry.

Senator Austin: Honourable senators, the Government of Canada provided a fund — and I do not have the amount at hand at the moment — to permit the airline system to increase its security following September 11, 2001. The reinforcement of cockpit doors, the strengthening of various partitions and provisions that relate to the use of electronic detection devices have been paid for by the Government of Canada in the last two years. I will be happy to provide Senator Meighen with the details of that program. I regret I do not have them here.

FINANCE

POLICY ON BANK MERGERS

Hon. David Tkachuk: Honourable senators, *The Globe and Mail* reported yesterday that the government would in all likelihood delay its June 30 deadline for issuing a policy on bank mergers, which the present Minister of Finance had promised he would do. In 1998, when the government rejected two major bank mergers, the finance minister at that time, Paul Martin, promised he would clarify the merger process for financial institutions.

It is hard to believe it has been six years. Merger review guidelines were issued in 1998 and the Standing Senate Committee on Banking, Trade and Commerce report supporting mergers was issued at the end of 2002. It has been six years since Mr. Martin has made his promise and still no government policy. The current finance minister is threatening to delay his action once again. If the new policy is to be delayed beyond the original June 30 deadline, when precisely can we expect to see it?

Hon. Jack Austin (Leader of the Government): Honourable senators, Senator Tkachuk is familiar with the reasons given by the Minister of Finance. I do not think that he provided a specific date, so I am not able to do so.

Senator Tkachuk: He did provide a specific date of June 30 and now he says he wants to delay the announcement of his decision, or delay the date. I am just trying to find out when we can expect to see it. Perhaps the Leader of the Government could enlighten me as to the reasons.

Senator Austin: Honourable senators, as I have just said, in stating that the date for the government's announcement with respect to the policy on bank mergers would be delayed, no future date was provided. I am not aware of the reasons given by Mr. Goodale, beyond those that appeared in the media.

Senator Tkachuk: Honourable senators, perhaps the Leader of the Government can inform all senators in the chamber exactly what reasons were given to the media. Can he also confirm that this merger process will not extend into the year 2005, as some newspaper reports have indicated it will?

• (1420)

Senator Austin: Honourable senators, the best course of action is for me to make an inquiry and table an answer to Senator Tkachuk's question.

NATIONAL DEFENCE

POSSIBLE TRANSFER OF HEADQUARTERS—
REFUSAL OF MINISTER

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, my question is for the Leader of the Government in the Senate. There has been talk in the deputy minister community in this town. Today in the *Ottawa Citizen*

there is an article that points out that David Pratt, the Minister of National Defence, did indeed send correspondence to his acting deputy minister on the matter of the move to the JDS Uniphase campus on January 21, almost one month after he promised the Ethics Counsellor that he would not involve himself further in the matter. Why did Minister Pratt not respect this promise to the Ethics Counsellor not to involve himself in the move by clearly trying to put pressure on his acting deputy minister to consider the JDS Uniphase complex?

Hon. Jack Austin (Leader of the Government): Honourable senators, there is no merit in that question at all and it does not arise out of the newspaper article.

The story simply says that on January 21, Mr. Pratt handed the responsibility for dealing with the DND Headquarters issue to another minister, Minister Guarnieri. I advised the house earlier in Question Period of the letter dated January 21 that was sent for that purpose — to advise the department that a different minister would be taking responsibility for this particular matter.

Senator Kinsella: Would the Leader of the Government in the Senate indicate whether that letter could be tabled in the Senate?

Senator Austin: I will make inquiries.

COMPETITION BUREAU

REVIEW OF GAS PRICE INCREASES

Hon. Jack Austin (Leader of the Government): Honourable senators, while I am on my feet, I would like to respond to a question by Senator Oliver, which was asked on May 11 with respect to gas taxes and the question of when the Competition Bureau would be able to act. I have been advised that examinations under the Competition Act are carried out in private and that all information obtained during the course of an examination is treated on a confidential basis.

JUSTICE

NEW BRUNSWICK—EFFECT OF FEDERAL COURT
DECISION STRIKING DOWN ELECTORAL
BOUNDARIES

Hon. Lowell Murray: Honourable senators, actually I have quite a number of questions. I hope the Leader of the Government in the Senate will consult his briefing notes concerning the decision of the Federal Court yesterday striking down electoral boundaries in Northern New Brunswick.

There was an appeal to the Federal Court by some people on the Acadian Peninsula, protesting their inclusion in the constituency of Miramichi. What are the options facing the government? Do they intend to appeal the decision? Do they intend to press on and hold an election on boundaries that have been effectively struck down? I understand that the court has given the government a year to put things right.

The judgment is not on the Web site of the Federal Court yet, so I have not been able to read it. Mr. Saada, the Government House Leader in the other place, has said it would necessitate appointing a new boundaries commission for New Brunswick to take this on. I presume all of the boundary commissions were functus as of April 1, when the new representation order came into effect. What law would permit the government to appoint a new boundaries commission for New Brunswick or anywhere else after the report is in and the representation order has been proclaimed?

This is a matter of great puzzlement perhaps because I have not had a chance to read the judgment. I am curious as to which options the government is facing and which option it has decided to follow. If the minister would care to extemporize, perhaps he could consult Senators Robichaud, Losier-Cool or Léger on the implications for the Liberal Party candidates in that province, following one or the other of the various options open to the government.

Hon. Jack Austin (Leader of the Government): Honourable senators, we are not in a position to get into too much discussion on the issue at this stage. As indicated by the honourable senator, the court has suspended the application of its decision in the Raiche case for one year. Therefore, the new boundaries that were established by the Electoral Boundaries Commission for New Brunswick are in place for one year.

We have hardly had time to consider and begin an analysis of what the implications are in order for me to respond to the rest of the honourable senator's question.

As the honourable senator knows, this is a decision of the trial division of the Federal Court. As the honourable senator's question suggests, there is a possibility remaining to the Crown to appeal the decision. However, I am not in a position to provide any specific advice on the direction that might be taken.

Senator Murray: Would the minister indicate if it is the position of the government that they would have to appoint a new boundaries commission for New Brunswick in order to do that and what is the legal authority for doing that?

Senator Austin: Honourable senators, as Honourable Senator Murray is quite aware, the court, having suspended the application of its decision for 12 months, has given appropriate time to consider all of these issues.

I believe that answers will be forthcoming and that there will be time to deal with the questions the honourable senator has asked.

DELAYED ANSWER TO ORAL QUESTION

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I have the honour to present a delayed answer to an oral question posed by the Honourable Senator Forrestall on April 29, 2004, concerning an issue raised in the Auditor General's report. Specifically, the query centred around the degree of multi-agency buy-in to the CSIS-established Integrated National Security Assessment Centre.

PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

CANADIAN SECURITY INTELLIGENCE SERVICE— INTEGRATED NATIONAL SECURITY ASSESSMENT CENTRE

(Response to question raised by Hon. J. Michael Forrestall on April 29, 2004)

The Canadian Government is committed to an integrated security system that will allow for the close cooperation of various departments and agencies. As part of this initiative, the Integrated National Security Assessment Centre (INSAC), which is now referred to as the Integrated Threat Assessment Centre (ITAC), will have representation from all the primary departments/agencies involved in security-related matters. As noted in the recently released National Security Policy, these include: Public Safety and Emergency Preparedness Canada (PSEPC), Canadian Security Intelligence Service (CSIS), Royal Canadian Mounted Police (RCMP), Communication Security Establishment (CSE), Department of Foreign Affairs (FA), Privy Council Office (PCO), Transport Canada and Canada Border Services Agency (CBSA). Representatives from agencies such as Health Canada, Agriculture Canada, Agri-Food Canada and Environment Canada can also be called upon, as required. Although housed within CSIS, ITAC will be accountable to the Minister of PSEPC.

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, we cannot debate the first item on the Order Paper, Bill C-3. Thus, I would like to call Bill C-28, which is Order No. 2, followed by Bill C-15, Bill C-30 and Bill C-9.

CANADA NATIONAL PARKS ACT

BILL TO AMEND—THIRD READING

Hon. Edward M. Lawson moved the third reading of Bill C-28, to amend the Canada National Parks Act.

He said: Honourable senators, first let me acknowledge Senator Banks and his committee for the speedy way in which they dealt with this matter. The members of the committee gave this proposed legislation thorough discussion. I was present to be a part of that debate. The bill is now before the chamber at third reading.

It is my privilege to speak at third reading on Bill C-28, to amend the Canada National Parks Act in order to remove land from Pacific Rim National Park Reserve of Canada and Riding Mountain National Park of Canada for Indian reserve purposes.

• (1430)

These amendments will accomplish two things: First, the removal of lands from Pacific Rim will resolve an acute housing shortage on the Esowista Reserve of the Tla-o-qui-aht First Nation and, second, the removal of 4.7 hectares of land from Riding Mountain will rectify an error that occurred in implementing a specific land claim agreement in 2000.

I want to emphasize that Bill C-28 will not serve as a precedent for other national parks. These are unique circumstances that need to be addressed collectively in this unique fashion.

When Pacific Rim was established in 1970, it completely surrounded the seven-hectare reserve of the Tla-o-qui-aht First Nation. At the time, Esowista was changing from a seasonal fishing camp to a permanent residential community. The Government of Canada recognized that a larger site would eventually be needed to meet the needs of the Esowista community and it committed itself to finding a long-term solution.

The land to be removed from the park, 86.4 hectares, will serve three main purposes. First, it will address acute overcrowding in Esowista. Second, it will allow infrastructure improvements to remedy sewage disposal and water quality concerns. Third, it will support the development of a model community that will exist in harmony with a national park reserve. It is expected that a total of 160 housing units will be required, of which 35 are required in the short term.

The Tla-o-qui-aht First Nation and the Department of Indian Affairs and Northern Development will cooperate with Parks Canada to minimize the impact of the expansion of the community on the ecological integrity of the park. This parcel of land represents less than 1 per cent of the park's total land base. Its removal from the park will have the least possible impact on Pacific Rim's ecological integrity and will accommodate the Tla-o-qui-aht First Nation's community needs.

With regard to Riding Mountain National Park, this bill will correct a technical error that occurred in 2000 in the preparation of the legal description for the land removal, which caused a five-hectare strip of land to be omitted and to remain within the park.

I believe, honourable senators, that this bill will go a long way toward showing the true determination of the Government of Canada to make a larger place for Aboriginal peoples in the affairs of our country.

Parks Canada, which administers directly our 41 national parks, 149 of almost 900 national historic sites and two national marine conservation areas, is also committed to strengthening its relationships with Aboriginal peoples, as stated in its recently released new corporate plan.

Mr. Alan Letourelle, CEO of Parks Canada, said:

Another key priority in the next 10 years must be an ever-improving focus on First Peoples. The historic places of Aboriginal peoples go back 10,000 years in Canada and,

frankly, we would be unable to establish and manage the majority of new national parks and many national historic sites without the enthusiastic determination of Aboriginal peoples. Parks Canada will return that enthusiasm by working closely with Aboriginal peoples at the local, regional and national levels.

I am confident that with the wise counsel of elders and chiefs across the country, we can continue on our journey of healing and learning to ensure that Aboriginal voices and stories become an inherent part of all Parks Canada programs.

The agency's corporate plan goes further and states that:

Parks Canada recognizes that developing partnerships and strong working relationships with Aboriginal peoples contribute to the agency's operations at all levels.

Over the next five years, Parks Canada will continue to build relationships in five areas, with particular attention on economic development and Aboriginal tourism opportunities. Its Aboriginal Affairs Secretariat will provide national leadership on these key issues:

First, community relations — to develop strong relationships with Aboriginal communities, strengthening the foundation for a broad range of formal and informal arrangements; to continue communication between field units and Aboriginal peoples and to explore cooperative management agreements with Aboriginal peoples through land claims processes.

Second, employment — to increase Aboriginal employment; to provide training and development opportunities for Aboriginal employees, particularly in the areas where specific employment commitments exist, as specified in a land claim or park establishment agreements, for example; and to ensure that Aboriginal peoples are well represented in Parks Canada.

Third, economic opportunities — to pursue greater inclusion of Aboriginal peoples in economic development planning, as recommended in our own Senate subcommittee study of northern parks, and to strengthen economic opportunities through tourism opportunities, employment, the Aboriginal procurement process and the development of partnerships at the operational level.

Fourth, presentation of Aboriginal themes — to refine interpretive messages and create opportunities for the public to learn about Aboriginal peoples and to meet the challenge and opportunity to ensure that every national park and national site, where relevant, will present Aboriginal themes over the next five years.

Finally, commemoration of Aboriginal history — to continue to strengthen the agency's efforts to encourage proposals and nominations for the national designation of people, places and events commemorating Aboriginal history and heritage.

What are the working relationships between Parks Canada and Aboriginal people? My colleague Senator Austin has already illustrated specific initiatives that are underway at Pacific Rim National Park, which I mentioned earlier. I would now like to speak briefly about the initiatives underway at Riding Mountain National Park.

When the Riding Mountain National Park was created in 1929, it included Indian Reserve 61A of the Keeseekoowenin Ojibway First Nation. The First Nation was relocated outside of the national park. A specific land claim settlement agreement, concluded in 1994 between Canada and the Keeseekoowenin Ojibway First Nation re-established Reserve 61A. Most of the associated lands were removed from Riding Mountain in 2000 with the passage of the Canada National Parks Act. However, due to an error in the preparation of the legal description for the land removal, a five-hectare strip of land was omitted and remained within the park. The amendments to the Canada National Parks Act will fully re-establish Keeseekoowenin Ojibway First Nation Reserve 61A and rectify the error that occurred.

Canada is respecting its obligations under the specific land claim agreement with the Keeseekoowenin Ojibway and building a foundation for strong working relationships with First Nations. What are these working relationships? I have already referred to the Senior Officials Forum. The forum was established through ministerial agreement in 1998 between Parks Canada and the Keeseekoowenin First Nation. It is intended to establish a positive and productive working relationship between the park and the First Nation that will assist the two parties in resolving issues of common concern and interest. Parks Canada has provided financial support for the forum.

A concept for the establishment of a coalition of First Nations with interest in Riding Mountain National Park is being discussed with nine First Nations which are members of the West Region Tribal Council. The coalition, if successful, would provide opportunities for discussion and resolution of issues that are of mutual interest to both Parks Canada and local First Nations.

Riding Mountain facilitates access to the park by Aboriginal people for traditional, spiritual and ceremonial purposes. The collection of plants and natural objects from within Riding Mountain is being carried out under permit by the Keeseekoowenin Ojibway Medicine Society. Employment of people of Aboriginal heritage within the park currently represents 15.7 per cent of its workforce, an increase from 7.2 per cent in 1998. It exceeds the national Aboriginal labour market availability of 2.5 per cent and the Manitoba Aboriginal labour market availability of 10 per cent.

Honourable senators, as you can see, Riding Mountain National Park is committed to strengthening its relationship with Aboriginal communities. A similar effort is underway across all Parks Canada's national parks, national historic sites and national marine conservation areas.

I will conclude by reminding everyone that there is broad support in favour of the proposed withdrawal of lands from Pacific Rim National Park Reserve and Riding Mountain

National Park. For example, the following bodies have indicated their support for the proposed withdrawal from Pacific Rim: Environmental nongovernmental organizations, including Greenpeace, the Sierra Club, the Western Canada Wilderness Committee, the Friends of Clayoquot Sound, the Canadian Parks and Wilderness Society and the provincial, regional and district governments and provincial First Nations groups.

When a solution to this problem was sought, Moses Martin, the chief councillor of the Tla-o-qui-aht First Nation, Parks Canada, the Department of Indian Affairs and Northern Development and the ministry of the environment must have picked up a canoe-load of goodwill and common sense. They had a small piece of land on the water that was not large enough for housing needs. The first choice was to have additional waterfront property, but Parks Canada said that the waterfront property would be kept for people who patronize the park. A short ways away was some old growth. Both sides wanted to leave that undisturbed. Not too far away, there was land that had already been logged, small shrub growth, ideal for building houses. The parties agreed on that land.

• (1440)

Honourable senators, this matter involved a serious and complex problem; it involved a legal error and the needs of First Nations people. The fact that there was unanimous approval from all the stakeholders, directly or indirectly involved, is impressive; they have shown us the way. As such, honourable senators, I cannot think of a better way to recognize their accomplishment than for us in this chamber to vote unanimously in support of the bill.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I was pleased to lend our support to this bill at second reading when we were debating the principle of the bill. The Standing Senate Committee on Energy, the Environment and Natural Resources, in its report on Bill C-28, recommends that the bill be adopted without amendment. In that regard, I wish to add a couple of words before the end of our debate at third reading on the bill.

I want to preface my remarks with reference to the Pacific Rim National Park Reserve, and to underscore the work of my colleague in the other place, Dr. James Lunney. His constituency includes part of this area and he has worked assiduously on this file. Dr. Lunney brought to our attention the importance of supporting the land transfer and the fact that housing improvements were definitely needed and supported by local communities. Infrastructure upgrades, in his judgment, also create a win-win situation for the neighbouring municipality of Tofino.

Dr. Lunney visited the reserve, met with a local council representative and later, twice, with the chief. He arranged meetings in his constituency office prior to the bill being entered for debate in the other place. I want to place on the record our appreciation for the excellent work that that member of Parliament undertakes in his area.

We all now understand Bill C-28 fully. In 1994, a land claim settlement agreement, involving land in the Riding Mountain National Park, between Canada and the Ojibway First Nation established reserve 61A. It was due to an error in the preparation of the legal description for the land removal that a strip of land was omitted when this reserve was created, and it remained with Riding Mountain National Park. Bill C-28 rectifies this matter.

I had a chance at second reading to emphasize the importance of ecological management. I did express, and placed on the record, our concern that maybe Parks Canada has not been given the kinds of resources it should be given to ensure the fullness of managing our parks in terms of their ecological needs.

I had the opportunity in committee to address the issue of special circumstances — that is, land being removed from a given park. We all understand that, in the public interest, it may be necessary — we do it in the private sector — to expropriate land, for the greater good of the community. Effectively, that is what has happened here: We are expropriating park lands for a public interest purpose.

In committee, I asked the officials whether Parks Canada has a policy regarding replenishing national parks when lands are withdrawn. The committee received an answer via fax — and I thank the chair of the committee for providing me with a copy of same — prepared by the officials. I wish to place their answer on the record. “Parks Canada does not have a policy regarding replenishing national parks when lands are withdrawn. National parks are intended to be established in perpetuity and lands are only withdrawn under exceptional circumstances.”

Honourable senators, we have uncovered what I believe to be a flaw in the current policy at Parks Canada. It is my hope that Parks Canada will take note that it is our view that it ought to have a policy of replenishing park lands, when, in the public interest, there must be a withdrawal of park lands. Just as the officials said in their answer to my question, national parks are intended to be established in perpetuity — that is exactly right.

It is my hope, honourable senators, that the Parks Canada officials will take note of this matter and that, in that regard, the department will put in place a replenishment policy, to be used where they withdraw land from our parks. Otherwise, honourable senators, we are happy to support this bill at third reading.

The Hon. the Speaker: Are honourable senators ready for the question?

Hon. Senators: Question!

The Hon. the Speaker: It was moved by the Honourable Senator Lawson, seconded by the Honourable Senator Banks, that the bill be read a third time now.

Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read third time and passed.

INTERNATIONAL TRANSFER OF OFFENDERS BILL

THIRD READING

Hon. Ione Christensen moved third reading of Bill C-15, to implement treaties and administrative arrangements on the international transfer of persons found guilty of criminal offences.

The Hon. the Speaker: If there are no honourable senators who wish to speak, are honourable senators ready for the question?

Hon. Senators: Question!

The Hon. the Speaker: It was moved by the Honourable Senator Christensen, seconded by the Honourable Senator Finnerty, that the bill be read the third time now.

Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read third time and passed.

BUDGET IMPLEMENTATION BILL, 2004

THIRD READING

Hon. Joseph A. Day moved third reading of Bill C-30, to implement certain provisions of the budget tabled in Parliament on March 23, 2004.

He said: Honourable senators, Bill C-30 deals with eight portions of the budget that require legislative change. What I propose to do, honourable senators, is to briefly discuss some of the points that came out of the second reading and the committee hearing with respect to this particular bill.

• (1450)

I begin by thanking all honourable senators for participating in the debates during second reading and at committee. I would especially thank my honourable colleague Senator Ringuette, who so ably assisted in delivering the speech on behalf of the government at second reading of Bill C-30. During those debates, Senator Ringuette undertook to obtain an answer to a question posed by Senator Oliver regarding amendments to the Farm Credit Canada Act. I would like to take a few moments to ensure we all understand that issue.

In the Budget 2004, the federal government announced that it had planned to provide funding of an additional \$20 million over two years to supplement Farm Credit Canada's planned agriculture and agri-food venture capital investments. In the Farm Credit Canada Act, it is stated that the limit on capital injections that the government may make to Farm Credit Canada is \$1.225 billion.

Since 1959, the Government of Canada has invested \$1.118 billion in this Crown corporation. The amendment is necessary to increase the statutory upper limit of capital payments to allow for future injections of capital to Farm Credit Canada for promising agriculture and agri-food companies.

[Translation]

The bill is divided into eight parts:

Part 1: Amendments to the Federal-Provincial Fiscal Arrangements Act;

Part 2: Amendment to the Canada-Newfoundland Atlantic Accord Implementation Act;

Part 3: General: Payments to certain entities;

Part 4: Amendments to the Canada Pension Plan;

Part 5: Amendments to the Employment Insurance Act;

Part 6: Amendment to the Farm Credit Canada Act;

Part 7: Goods and Services Tax and Harmonized Sales Tax rebate for municipalities;

Part 8: Limitation periods for collection of charge debts and tax debts.

[English]

Honourable senators, let me deal briefly with certain of parts of Bill C-30 so that we can understand their thrust. I do not intend to go into extensive detail with respect to each of the eight parts. I will briefly refer to some of the measures intended to address Canadian priorities with respect to communities, health care, learning — particularly learning for our youth — and the environment.

In key policy arenas, communities represent the front line. That is why the budget takes the first steps in the government's commitment to forge a "new deal" for communities of all sizes. This bill implements the government's commitment to provide a 100 per cent rebate of the goods and services tax, or GST, and the federal component of the harmonized sales tax, the HST, in those municipalities that have entered that regime, paid by the municipalities in providing municipal services and community infrastructure. That translates into approximately \$7 billion worth of GST/HST relief for local governments across Canada over the next 10 years.

The budget also recognizes that investments in learning are fundamental to a strong economy. The federal government fully recognizes that support for learning starts with the birth of a child and extends well into adulthood.

Through this bill, federal funding to the provinces and territories for early learning and child care will increase by \$75 million in each of the next two years under the new Canada Social Transfer to accelerate implementation of the 2003 Multilateral Framework Agreement on Early Learning and Child Care reached by federal, provincial and territorial ministers responsible for social services. A \$150 million increase

over two years, combined with previously committed funding this year and next, could provide up to \$48,000 new childcare spaces or up to 70,000 fully subsidized spaces for children from low-income families in Canada.

Further action to help strengthen our publicly funded health care system is also a key component of Budget 2004. Building on the additional \$2 billion for funding for health to provinces and territories, confirmed by the Prime Minister in January in support of the 2003 First Ministers' Accord on Health Care Renewal, this bill provides funds to improve Canada's readiness to deal with public health emergencies and address immediate gaps that have been found in our system as it has been tested over the past while.

Bill C-30 authorizes \$400 million to be provided to provinces and territories over three years, of which \$300 million is targeted to a national immunization strategy. The remaining \$100 million will relieve stresses on provincial and territorial health care systems that were identified during the SARS outbreak and will help those levels of government address immediate gaps in their public health capacities by supporting front-line activities, specific health protection and disease prevention programs, information systems, laboratory capacity, training and emergency response capacity.

As well, Bill C-30 proposes that \$100 million be provided to the Canada Health Infoway Inc. to allow the provinces and territories to invest in software and hardware with a goal of assessing, developing and implementing high-quality, real-time public health surveillance systems.

Health care and learning priorities are also addressed, of course, through renewal of the Equalization Program. Honourable senators will be aware that your National Finance Committee dealt with the equalization issue about two years ago. The committee is conducting a further study of that issue. Given that the Equalization Program is so fundamental to our Canadian unity, I have no doubt that the committee will continue to assess it in the years to come.

The Equalization Program is reviewed and renewed every five years to ensure the integrity of the formula upon which the payments are based. Honourable senators will know that this is a complex formula and a very complex application involving over 33 different bases of revenue. There have been attempts to avoid the large swings in annual entitlements for receiving provinces. There have been attempts in this legislation to achieve that through a three-year running average.

Honourable senators, we heard at length from the Minister of Finance last evening on this particular matter, and I believe that what is being proposed is reasonable under the circumstances, but it is clearly not what some provinces have asked for. Adjustments are made for British Columbia, Saskatchewan, Newfoundland and Nova Scotia in this legislation. It is still not everything that everyone and every province would like to have, but I submit that it provides for a good balance and that we will keep working at it as time goes on.

[Senator Day]

• (1500)

The budget also recognizes that a clean and safe environment is fundamental to a healthy society and stable economic growth. To promote better environmental stewardship for the future, the bill invests \$200 million in the Sustainable Development Technology Foundation and broadens and makes clear the foundation's mandate to include support for clean water and soil technologies from the point of view of sustainable development technologies.

These are a few of the key measures, honourable senators, contained in Bill C-30.

The bill also makes changes to several other areas that are important to Canadians. It clarifies rules with respect to employers' contributions and refunds in the Canada Pension Plan and the Employment Insurance plan. Specifically, employers who have been involved in business restructuring previously had to pay twice, or could potentially have had to pay twice, on behalf of all their employees if they went through a restructuring. This bill recognizes that and ensures, from an employer restructuring point of view, that that does not have to happen.

The bill deals with another Canada Pension Plan point that many honourable senators have been involved with, and that is where someone takes an early pension by virtue of disability but then he or she starts to feel better and wants to go back to work. The Canada Pension Plan, as it existed, has discouraged that by making it difficult for the person who goes back to work, but then finds that he or she cannot handle the work, to go back on a disability pension. This bill provides an incentive for the individual to go back to work and try, for a two-year period, which I think is an important initiative. I was pleased to see that initiative being reflected in changes. Like several honourable senators, I have urged that that change be made.

A final interesting amendment, honourable senators, provides for a 10-year limitation period for the collection of federal tax debts under several acts. In the past, when we went to law school, we were informed that the federal government could demand tax payments for any time in the past. There was no limitation period with respect to tax debts that a citizen may owe to the federal government. A recent decision of the Supreme Court has established that, indeed, there is a limitation period, or there should be such a period. This is the government's reaction to that decision. The bill provides for a 10-year limitation period for the collection of debts. If a debt is owed to the federal government under one of these listed statutes listed for more than 10 years, the federal government is barred from going to court to collect it.

Honourable senators, these are a few of the highlights of this budget implementation bill. Budget 2004 is a budget that I believe has struck the right balance between targeted investments for Canada that are needed to strengthen Canada's social programs and build a Canada for the 21st century, while maintaining the fiscal prudence that has served our country so well in recent years.

The events of 2003 proved that the road ahead will not always be a smooth one. We can predict the growth over the next few years, but we cannot always achieve it. Senator Tkachuk had an extensive discussion last evening with the Minister of Finance on

that issue and the goals that have been set for the next 10 years by the Canadian government. Whenever situations arise that require prompt and immediate action or reaction, support from all levels of government, our government will be there to help families, businesses and individuals get back on their feet, just as was done during the past year with respect to several major challenges. We expect that this will be done while at the same time doing our best to maintain a balanced budget and, indeed, paying down the debt to the extent it is practicable.

This important bill requires swift passage in order to close the financial books for 2003-04 fiscal year. Honourable senators will recall that there were some questions about why some of the funds in this particular bill related to the previous fiscal year. We had an extensive explanation of that issue last evening. It relates to what is acceptable to the Auditor General in terms of dealing with an expenditure that is to apply in a previous year. A commitment was made, subject to parliamentary approval, and the bill seeking that parliamentary approval must have issued before the end of the fiscal year. In fact, that is what has happened in this instance. The books must not have been closed with respect to that fiscal year, and in fact that is the case. That is what makes this particular bill take on some degree of urgency.

Therefore, I would ask honourable senators to provide quick passage of this important bill.

I thank honourable senators for their attention.

Hon. Lowell Murray: Honourable senators, now that this bill has been reported by the and is before us for third reading, the time has come for me to express some moderately bilious personal opinions that I have been holding back for the last few weeks.

At our committee meeting last night our witness was the Minister of Finance, Mr. Goodale. Mr. Goodale told us that Bill C-30 is the first of several bills to implement provisions of the March 23 budget. He told us — and Senator Day alluded to this in his concluding remarks — that, because the government wanted to have urgent matters, matters on which there was and is a time line, dealt with first, this bill is now before us. That is the case, from an accounting perspective, only with regard to certain payments that are being booked in the previous fiscal year, 2003-04, and, from an accounting perspective, ought to be legislated before the books are closed and sent off to the Auditor General some time this summer.

However, that is demonstrably and emphatically not the case with regard to the part of the bill dealing with equalization. I will come back to that point later. It need not be the case for the part of the bill dealing with employment insurance. This is a case where the government has, since the turn of the present century, been ragging the puck, and has been, if I may mix metaphors, afraid to bite the bullet while ragging the puck.

Senator Banks: Block that metaphor.

Senator Murray: Senator Banks is right.

The government has been frustrating the spirit and intent of the Employment Insurance legislation, grabbing unto itself the right to set premiums, taking that process away from the commission on the advice of the Chief Actuary. This should have been settled long before this but, I think for reasons of politics and fiscal advantage, the government chose not to do so. I may have time to come back to that before I sit down, perhaps not, but I made something of those points in a brief exchange with Senator Ringuette the other day.

I suppose it would be taken by many here as the ultimate accolade if I were to say that there is not an iota of difference between the Chrétien and the Martin governments, and I do say that with regard to the federal government's attitude and approach to federal-provincial fiscal relations.

• (1510)

The core program, as Senator Day indicated, is the equalization program. It is the program through which the federal government makes unconditional grants to the provinces to ensure, insofar as we can, that citizens of Canada, wherever they live, have reasonably comparable levels of provincial services at reasonably comparable levels of taxation. It was so important that the fathers of the 1982 Constitution thought it necessary to place in the Constitution. As somebody observed at the committee, and the point was repeated here the other day, it is to some extent the glue that holds the federation together. It certainly speaks to the central value — the value of sharing — in our federation.

I suppose another program that could be considered a core program, if only because of its reach, touching as it does health, post-secondary education and social assistance, is the Canada Health and Social Transfers. It, too, could be considered a core program in federal-provincial fiscal relations.

Over a period of time, the government has found various devices for holding equalization down. One was the ceiling that existed for many years and was removed recently. Another was the move from the 10-province standard to the five-province standard, about which I will say something later.

The fact is that official Ottawa does not like equalization. They do not like equalization because there is an element of unpredictability in any formula-driven program, as this is. Political Ottawa does not like equalization because, to them, there is not enough political visibility to equalization. Liberal governments and Liberal ministers are much touchier than others on this point. Senator Mercer and I had this conversation several weeks ago at the committee. I think the government's concerns about political visibility in the provinces are rather exaggerated. As a matter of fact, I do not think many people in the recipient provinces are under any illusion that all the money for the provincial services they get is coming out of own-source revenues of the province. I suggested to Senator Mercer, in an exchange we had at the committee, that if he were to stop any reasonably well-informed citizen of Nova Scotia on the street one day — and all of them are reasonably well-informed — and asked them what portion of the provincial budget was accounted for by transfers

from Ottawa, most people would be pretty close to the mark. The answer, at least the last time I looked, was somewhere in the neighbourhood of 40 per cent. I do believe the federal government's concerns on that score are somewhat exaggerated, but there you go.

The federal government has shown in the past 10 years that as soon as the fiscal situation improved, rather than make any significant improvements to equalization or to the CHST, except for some catch-up that they have made to compensate for the very large cuts that were made in 1995, the federal government vastly prefers direct payments to individuals and institutions through the use of the federal spending power in areas of exclusive provincial jurisdiction. This they do with scholarships, innovation grants to universities, grants for health research and all the rest of it. I am not questioning whether these are good and useful contributions to Canadian society, and I am prepared to acknowledge that to some extent these programs take the pressure off provincial treasuries. Still, the core programs in health and post-secondary education are administered by the provinces, and they are not being attended to sufficiently.

Further, the direct exercise of the federal spending power in these areas are, it seems to me, not done in any collaborative effort with the provinces, and still less in any effort to recognize or take account of vastly different circumstances and conditions across the country. Therefore, I am troubled by the fact that core programs such as those under equalization and the CHST are still being held down while the government is, relatively speaking, awash in budget surpluses.

I think we should all be troubled by the fact that the federal government and the provinces cannot even seem to agree on a definition of the problem. You hear these arguments about how much the federal government is contributing to health care. The provinces at one point say it is 14 per cent and the federal government says it is 40-odd per cent, depending upon what you put into the calculation and whether you include the tax points that were ceded back in the 1970s by Ottawa to the provinces.

The argument is getting us nowhere. I do believe that something has to be done to take a fresh look at the whole area of federal-province fiscal relations. I think the only acceptable way to go about it is either in some joint, federal-provincially appointed commission or by something like the old tax structure committee that existed for a while during the Pearson years, which actually did try to make a reasonable projection of where federal revenues were going versus federal spending responsibilities, and provincial revenues versus provincial spending responsibilities.

When the previous government of Quebec under Mr. Landry appointed Mr. Séguin, who later returned to politics as the Liberal Minister of Finance in the Charest government, to head up a commission in the matter, he brought in a report detailing the fiscal imbalance in the country with a fair bit of research having been done by the Conference Board of Canada. Later, when the other premiers had a study done, also purporting to show a considerable fiscal imbalance, the federal government simply denounced it as a myth. Mr. Dion, the then-Minister of Intergovernmental Affairs, dismissed it out of hand: It is a myth. There is no point in trying to project revenues and expenditures; it is all status-quo basis.

What else would it be? To suggest that you cannot project some likely scenarios forward five or 10 years and base an action plan on them strikes me as being rather obtuse, to put it mildly.

Still, that attitude has not changed at all with the change in government. Mr. Goodale was a bit more tactful about it when he appeared before the committee last night, saying that the projections of large federal surpluses in the future are based on what he called flawed assumptions. We asked him to go into the working papers of the federal Department of Finance and let us see the presumably valid assumptions that they are working on, and one waits with bated breath for all that.

To come back to equalization, and why I say it is not necessary at all to have the equalization program dealt with now, the house may recall that the previous equalization program was due to expire on March 31, 2004. The Chrétien government left office apparently without having taken a decision on the matter. When the Martin government came to office, one of the first things they did in their first session of Parliament was to present Bill C-18, which they did on February 12 in the House of Commons. The purpose of Bill C-18 was to extend for another 12 months the old equalization program, it being understood that a new formula, when it came in, would be retroactive to April 1 of this year. As I say, that bill was presented on February 12 in the House of Commons and received third reading here in the Senate on March 25. Any reasonable interpretation of that action would be that the government wanted more time to consider and discuss a new equalization formula.

On February 20, while Bill C-18 was still before the House of Commons, there was a federal-provincial finance ministers' meeting, the second attended by Mr. Goodale, as he told us last night, in the course of which he simply went in and laid it on the table and said, "Here is the new formula." He did this while we still had the extension of the old formula before us in Parliament. Then, on March 23, with Bill C-18 still before the Senate, he tabled his budget. In those budget documents was the outline of the new program, which then found its way into Bill C-30.

• (1520)

Then, on April 18, the Premier of Saskatchewan, Mr. Calvert, met with Prime Minister Martin and came out announcing that Mr. Martin had instructed his minister, Mr. Goodale, and officials to get together with Saskatchewan officials and the minister to revisit a number of serious grievances that the Province of Saskatchewan has with the equalization formula. That lent credence to the idea that although Bill C-30 was before us, it was still not cast in stone and there was still room for changes.

Indeed, as soon as the announcement was out, other provinces began to see the possibilities for some further tweaking of the formula. Premier Pat Binns of Prince Edward Island, who is himself a native of Saskatchewan and probably follows what is going on there, was not slow off the mark in seeing the opportunity to revisit some of these questions.

All the provinces have problems with the workings of the formula, and there is no point in going into all of them here. Our committee issued a report two years ago on these matters, but

Saskatchewan has a very serious problem. To give the government credit, it did agree to \$120 million compensation for Saskatchewan because the formula had worked so seriously to Saskatchewan's disadvantage with regard to the sale of Crown leases. Saskatchewan was viewed as taxing those leases at 6.9 per cent, while there was a notional national average tax rate of 15.6 per cent, which meant that, for purposes of the formula, Saskatchewan's tax base for equalization purposes was more than double. They lost a lot of money on that, and the government agreed to compensate them to the tune of \$120 million.

However, that was not the only problem that Saskatchewan has faced. We had Professor Courchene of Queen's University before us, and Premier Calvert discussed the matter with the Prime Minister. Professor Courchene has done a piece for the Institute for Research on Public Policy showing that while Saskatchewan's energy revenues in the year 2000-01 totalled \$1.038 billion, the equalization offset associated with those revenues was even larger, namely, \$1.126 billion, or a tax-back rate of 108 per cent.

There are several reasons for that. One reason is the existence of a five-province standard, rather than a 10-province standard. Saskatchewan is in the five-province standard but Alberta is not. Thus, within the five-province standard, Saskatchewan becomes a very rich energy province, and, as a result, for example, for third-tier oil, which is one of the revenue sources for energy, Professor Courchene points out that Saskatchewan would be seen to have 37 per cent of a 10-province base, but 97 per cent of a five-province base.

The inequity of a tax-back rate of 108 per cent is obvious for anyone to see. It is an outstanding injustice that is done to Saskatchewan, and the Premier is right in asking to have it revisited and the Prime Minister was perfectly right in saying that he would revisit it.

However, rather than hold back on the equalization portion of this bill, the government, at least the Department of Finance, has decided to go full steam ahead. Why are they pushing ahead? If I were paranoid — and, of course, I am not — I would believe that the Department of Finance was sending a message to Prime Minister Martin. It is saying, "Mr. Martin, sir, you are Prime Minister now, but, remember, it is the Department of Finance that still runs the country." There are some wise heads on the other side nodding. I will not identify them at the moment.

There is no need to have gone ahead right now with the equalization portion. They could have waited and negotiated a new formula. Finance does not want to do that. It wants this thing cast in stone as much as possible.

We had an exchange with the Minister of Finance last night on this matter, and I will not quote it all. I asked him whether we were to assume that the undertaking of the Prime Minister to revisit this issue has meant that the revisitation would take place in the year 2009. Mr. Goodale said no, but that the normal cycle is five years, et cetera, and at various times he said the following:

Obviously, if a consensus can be reached, it is always possible to move forward quickly than absolutely be locked into five-year cycles. I would hesitate to raise an expectation.

To that I replied as follows:

With respect, that has been done, Mr. Minister, by the Prime Minister.

Mr. Goodale then says:

The Prime Minister undertook to examine any instance of that.

That is, matters that needed correction, and the minister continued:

If, indeed, other examples were found of errors, mistakes, miscalculations, we will move to correct them.

He pointed out that there have been meetings between federal officials and Saskatchewan officials.

Mr. Goodale further said:

... if another problem is identified, either in relation to Saskatchewan or some other province, we would move to make the correction.

That is as far as the committee can go in getting an assurance from the minister. I suggest that the media in Saskatchewan and elsewhere and the political opponents of the government, whoever they may be, in Saskatchewan and elsewhere ought to press this point and get some more specific undertakings from the Prime Minister as to the fact that they are prepared to reopen the equalization portion of the bill that seems to be on its way to passage and Royal Assent here, in order to correct serious inequities for Saskatchewan and problems affecting other provinces before the year 2009. Otherwise, it will be worth a trip to Saskatchewan during the election campaign to see Mr. Goodale and Prime Minister Martin on a platform explaining to the incredulous voters of Saskatchewan that the revisitation he had in mind will not be taking place until the year 2009. They have been doing some fancy footwork on this issue of equalization.

I wish that the government had been as fast on its feet to put things right with the employment insurance fund. This story goes back a long way. Auditors General had been stating that so long as the federal government had access to the EI fund, it could not be considered as being off the books. It could not be considered a separate fund and had to be integrated into the accounts of the government. The Mulroney government did that. As a result, it obtained, for the first time in many years, a clean bill of health on the books from the Auditor General.

At the time of recession and increasing premiums, we decided to keep premiums no higher than three dollars per \$100 of income, I believe, and in any case we swallowed the deficit through the Consolidated Revenue Fund. Our successors in the Chrétien government were able, with lowering unemployment, improving

economic conditions and increasing premiums, to correct that. The deficit has long since disappeared. The law provides that a surplus in the fund should be just enough to provide a cushion against any downturn in the economy. The Chief Actuary has fixed the number at the outer limit of \$12 to \$15 billion. The surplus in the fund is now reaching \$47 billion, which is unconscionable.

The government keeps fooling around with it. On several occasions, it has legislated to get out from under the Employment Insurance Act and grab for themselves the power to set the premiums, all the while explaining that consultations have to go forward, and it will be coming up with a new program or solution in due course. We heard that again last night from the minister, Mr. Goodale, who, with this bill, will obtain the authority, with his colleagues, to set the premiums as far ahead as next year, 2005, just in case these consultations have not been completed by that date.

• (1530)

Now, that is what has been happening with the employment insurance fund. It is unjustifiable. It is part of a smoke-and-mirrors approach to budgeting and fiscal accountability, but it is also an employment tax and they might as well acknowledge it and get on with it. However, they do not want to do quite that.

Honourable senators, I woke up this morning turning this issue over in my mind, and before I got out of bed I decided what we should do if they come back another time with a bill of this kind. Since we have no authority to raise a premium but we do have the authority to lower one, if there is a next time, we should set the premium at zero and give employers and employees a well-deserved premium holiday on employment insurance.

Some Hon. Senators: Hear, hear!

Hon. Jack Austin (Leader of the Government): Honourable senators, I wanted to thank Senator Day for his prodigious work on Bill C-30 and to also thank Senator Murray for his incredible contribution. Senator Murray has an encyclopedic knowledge of one of the most difficult, convoluted, complex and baroque topics in federal policy.

Senator Murray: It is the conclusion with which I want you to agree.

Senator Austin: I am getting there.

The speech Senator Murray has just made is an illustration of just how much background and how much insight he has on this subject. It is a unique talent not only in this chamber but in the other chamber as well. He has no rival over there, with the possible exception of the Minister of Finance and the Prime Minister.

I wish to add this particular comment: We have had a very effective National Finance Committee under Senator Murray, and of course I hope that will continue. The idea of fiscal imbalance has intrigued me, and I would like to turn this comment into a question and ask: Is there a theoretical or

conceptual basis to any argument about what should be the balance between the federal and provincial governments in terms of the revenue sharing of the Canadian tax capacity? I have never been able to find anything — pragmatism, yes, historical balance, background and the movement of funds from the federal government to the provinces for specific reasons. However, I have never understood there to be an argument that could be founded on a conceptual or theoretical basis. Would Senator Murray care to comment?

Senator Murray: Honourable senators, I am not enough of an economist to know whether the argument is still valid about having the federal government being sufficiently strong enough to “manage the economy” in downturns and to guard against unemployment on the one hand and inflation on the other, now that we have such an open economy.

First, I firmly believe that the federal government must be strong enough financially to carry out the responsibilities that the Constitution assigns to it in such areas as defence and security, as we have seen recently. Matters such as foreign aid have become increasingly important as well. The federal government must be strong enough to acquit itself of those tasks effectively.

Second, the federal government must be in a position to equalize opportunities across the country. That is clear. I hope nothing that I have said has ever argued to the contrary. I do believe it is wrong to dismiss the idea of a fiscal imbalance as myth. It is possible to develop various scenarios about where we are going in various provincial responsibilities versus federal responsibilities and what the likely revenue growth will be at both levels of government. The tax structure committee in the 1960s did that. Tom Kent has discussed it in some detail, as has Gordon Robertson and Mitchell Sharp in their respective memoirs of that period, which are worth a read.

Hon. Donald H. Oliver: Honourable senators, I would like to join in the debate on Bill C-30. I do so with fear and trembling and with a lot of misgivings, particularly after the eloquent speeches by both the Honourable Senators Day and Murray, and even moreso after the accolades placed upon them by the Leader of the Government in the Senate. Nonetheless, I have a duty and an obligation, and I do wish to speak to this bill.

Honourable senators, I am a bit surprised that here we are on May 13 actually talking about this issue because if one can believe what has been said in the media over the last two months, we could very easily have been in an election sometime in April; if so, this bill would have died on the Order Paper.

As honourable senators have heard from the other senators today, this bill is now an absolute must and we must have it before Victoria Day. Only a couple of weeks ago the government was prepared to let it die on the Order Paper as it marched to the polls for a June 14 election day. Why was it not a priority when the government was contemplating a June 14 election and when did it become a must-have bill?

Senator Kinsella: Good question.

Senator Oliver: Early passage of this bill achieves two things, it seems. First, it allows the government to charge \$620 million of spending to the fiscal year that ended on March 31. Both Senators Day and Murray have alluded to that and I did as well two days ago at my second reading speech.

The Minister of Finance, in his testimony before the Standing Senate Committee on National Finance, last night stressed this as the key reason the government now needs the bill, stating:

Bill C-30 focuses on items that I would consider urgent. It particularly includes measures that relate to the last fiscal year.

As I explained earlier, to meet the standards and the tests of how one can properly book those items in relation to the last fiscal year, this measure would need to be enacted before we would close the books and send them to the Auditor General.

Honourable senators, we are being asked to give early passage to Bill C-30 so the government can achieve an accounting result. I have some real problems with this. The largest backdated item is a \$400 million payment to a public health trust, yet Bill C-30 does not specify when the government is to cut a cheque, does not require that the payment even be made, and allows the government to pay a smaller amount than \$400 million. The legislation simply says:

The Minister may make direct payments, in an aggregate amount of not more than four hundred million dollars...

What happens if the government changes its mind after the books have been closed on the 2003-04 fiscal year, given that it is under no legal obligation to make the payment? Do we then put the \$400 million back into this year's surplus?

Finance Minister Ralph Goodale did provide a rather lengthy explanation of the government's year-end accounting practices that could probably be paraphrased as, “We can get away with it as long as it is urgent, the bill is introduced before the end of the fiscal year, and legislation is passed before the books are closed in August.”

Honourable senators, who decides what is in fact urgent? As I said in my second reading speech, the government plans to backdate a \$100 million payment to Canada Health Infoway to last year, while booking a \$200 million payment to the Canada Foundation for Sustainable Development Technology to this year's account.

• (1540)

The payment to Canada Health Infoway is to help the provinces pay for hardware and software, which is understandable, and will flow to the provinces over a period of time. While this may be a worthy objective, how does it meet the test of urgency? This is pretty fancy accounting.

One reason that the government wants this bill now is so that it can issue GST rebate cheques to municipalities. The government is telling us that while the GST rebates to municipalities will be retroactive to February 1, no payments can actually be made until this legislation is passed. I see that the Leader of the Government in the Senate is nodding his head in agreement.

This is curious, given that, in the past, the government has used remission orders that the Honourable Senator Austin would be familiar with to refund other taxes. You did not need a bill, just a mere remission order. We trust that those retroactive cheques will be put in the mail the day after Bill C-30 receives Royal Assent. Only a few weeks ago, the government was willing to let them wait until the fall.

As a matter of law, dealings between Canada Revenue Agency and taxpayers only find their way into the public domain if the taxpayer releases the information or if someone is charged with tax evasion. Bill C-30 departs from that practice by allowing the government to disclose the rebates paid to individual municipalities. Can we assume, honourable senators, that the government will hold off issuing press releases, saying who got how much until it actually cuts the cheques?

Honourable senators, there are a group of other outstanding tax changes that have been announced but not yet brought to Parliament by way of legislation. Last October 3, the government announced several non-controversial and in some cases extremely technical GST measures. For example, the services of social workers are now GST-exempt. One change that will be retroactive to 1998 concerned the abatement or refund of tax as if it were a duty. Why is government not dealing with these other changes to the GST law, including rules for rebates, some of which were back dated by as much as six years? Where is the legislation for the huge pile of technical tax changes announced in December 2002, some of which are back dated to the mid-1990s? Where is the legislation for income tax measures announced in the 2003 budget? Does this government find it acceptable that their officials cannot deliver tax legislation in a timely manner?

Bill C-30 allows the cabinet to set the EI premium for next year if new legislation to create a new premium-setting mechanism is not in place by December. The minister told the committee last night:

In case, for some reason, we do not get through the legislative process by that time, it is important to have the regulatory authority to deal with the rates for the next calendar year, just in case.

Just in case of what? Would we simply not revert to the law that says that premiums are to be set by the EI Commission with a view to having enough money in the account to balance premiums over a business cycle? If that were the case, would the EI Commission, after looking at the \$47 billion EI surplus that I spoke about at length two days ago not be legally bound to chop premiums dramatically, as Senator Murray has suggested so eloquently? This clause has nothing to do with ensuring certainty, nothing to do with ensuring that rules exist for rate-setting and

everything to do with keeping EI premiums higher than they ought to be, given the money in the EI account at present.

Take away that \$47 billion EI surplus. Take away the \$25 billion in cumulative cuts that Prime Minister Martin made to payments for health and education in the government's first two mandates and there is no debt reduction. This government's fiscal success has been the result of overcharging for a program that is supposed to break even and under-funding health care and education.

The government has dragged its heels on a new rate-setting mechanism for almost four years now. It does not take that long to hold consultations, unless your strategy is one of delay, delay, and then some more delay. For all we know, the government may have already made a decision about how rates are to be set in the future, but it will not tell us until after the election that is imminent.

Bill C-30 legislates a new five-year framework for the equalization program, one that has not been well-received by the provinces. The Government of Saskatchewan, as Senator Murray has set forth again today, in particular has serious problems with the treatment of mining and resource revenue. Three weeks ago, the Prime Minister gave an undertaking that his Minister of Finance would sit down with the Saskatchewan equivalent to revisit the matter.

The budget specifically told us that the treatment of resource revenue would not be reopened until the framework of this bill expires, five years from now, in 2009. The minister was asked in committee about time lines. I do not doubt that there will be discussions and an exchange of information and views back and forth. However, no specific commitment was given to deal with this matter earlier than five years. As the minister said:

The renewal processes are on a five-year cycle. Obviously, if a consensus can be reached, it is always possible to move more quickly rather than absolutely be locked into five-year cycles. I would hesitate to raise an expectation.

The minister is thus in the position of being able to say in his home province that the matter is open, while not making a commitment to actually fix the way some parts of the formula in the past have hit Saskatchewan, with claw backs in the 200 per cent range.

Honourable senators, beyond the specific content of this bill, I would like to make two other brief observations. The six weeks since the budget have seen three major economic changes in the landscape. First, interest rates have gradually started to rise; the budget did assume that they would. Second, the dollar has shown some weakness in recent weeks. Third, and most significantly, there has been a spike in gasoline prices.

On Wednesday night, neither the Minister of Finance nor any of the army of officials he brought with him before the committee could tell the committee how much in extra GST the government is reaping from the spike in gas prices. Given that the issue has been raised in the other place, and given the potential of a huge

windfall, I do not know what is more disturbing: That the minister did not know, or that no one around him had bothered to crunch the numbers.

Given the volume of the gas subject to the excise tax, the answer would probably be in the ballpark of about \$30 million per year at the pump. Let prices stay up at about 80 cents and the government will have enough money to pay for the whole adscam all over again.

We certainly know that higher gas prices have a positive effect on the government's bottom line. There are some who want higher gas prices to help meet our Kyoto targets. It is somewhat confusing trying to sort out just where the government stands on this. The Minister of Finance was known to be a Kyoto booster when we has Minister of Natural Resources, but says that the prices we have seen to date will not make that much of a difference in meeting our Kyoto targets.

He told the committee that:

The academic studies have indicated that before there would be any significant change in consumer behaviour, you would really have to see prices in the order of magnitude that are sort of on the street in Europe, and that is certainly not the direction in which the Government of Canada intends to go.

This is curious. In February, the Honourable David Anderson, the Minister of Environment, mused aloud about using higher gas taxes as a Kyoto strategy. The *Regina Leader-Post*, on February 17 carried this report:

Environment Minister David Anderson raised the possibility of an extra tax on gasoline Monday, saying the new levy could allow the government to decrease personal income tax.

'For every dollar we don't take in an excise tax, it means we take one more in an income tax. Is that the split people want? Do they want to pay higher income taxes, and less consumption taxes on gasoline?' Anderson asked. 'At least that choice should be put to them.'

• (1550)

Anderson floated the idea in response to a question about imposing a gas tax to help Canada meet the Kyoto Protocol.

Second, honourable senators, I observe that, as an election call draws closer, we see the government trying to shut down potential problems. Suddenly, there is money to fix regional problems in the EI program, particularly in a province like mine. Suddenly, the gun registry is under review.

One of the more recent retreats concerns the budget's proposed limits on investments in trusts by pension plans. The budget specified that pension funds would be restricted to putting a maximum of 1 per cent of their assets in business income trusts and acquiring no more than 5 per cent of individual business trusts. This is not part of Bill C-30, but it could be part of a future income tax bill if the government does not change its mind.

The government has faced heavy criticism about this measure, not only from pension plans such as the Ontario teachers' fund — OMERS — but also from Liberal counterparts at Queen's Park in Toronto. Earlier this week, the Minister of Finance said that he was rethinking this measure. He was reported in Wednesday's *National Post* as saying:

This is the sort of provision that quite frankly did not lend itself to advance consultation. I'm in the process of doing that.

The Hon. the Speaker: I am sorry to interrupt, but I should clarify. Are you asking for leave to continue, Senator Oliver? I took it that Senator Murray's intervention was the 45-minute intervention. I should have clarified earlier if you, as the Conservative spokesman, were to have the 45 minutes. The matter can be cleared up if you are asking for leave to continue. I take it that you are.

Senator Oliver: I can conclude with six more sentences.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: Leave is granted, honourable senators.

Senator Oliver: Today's *The Globe and Mail* quotes an Ottawa insider as saying:

You don't particularly want to have a lot of municipal employees and teachers going to their all-candidate meetings and asking about this.

Thus, a tax measure that was cast in stone eight weeks ago is now open to consultation. The Minister of Finance simply did not do his homework.

Honourable senators, I suspect that this will be the last budget implementation bill introduced by this government. I look forward to debating the proposed budget legislation of the coming Conservative government.

Some Hon. Senators: Hear, hear!

Senator Banks: I think you refer to that as the "faint hope clause."

Some Hon. Senators: Question!

The Hon. the Speaker: Are honourable senators ready for the question?

Hon. Senators: Question!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Senator Kinsella: On division.

Senator Forrestall: On division.

Motion agreed to and bill read third time and passed, on division.

PATENT ACT FOOD AND DRUGS ACT

BILL TO AMEND—THIRD READING

Hon. Eymard G. Corbin moved the third reading of Bill C-9, to amend the Patent Act and the Food and Drugs Act (The Jean Chrétien Pledge to Africa).

He said: Honourable senators, I could speak at length, but I feel that time is of the essence.

I should like to thank each and every honourable senator who contributed to this debate. After hearing the exchanges in committee yesterday, my feelings about this bill are reinforced and I again thank honourable senators, particularly Senator Keon, who raised pertinent questions and concerns. That was extremely useful.

The various departments involved not only in the drafting but also in the execution of the proposed provisions of this bill have been very open and helpful. Some questions and concerns remain, but it is important to note that there will be a review of this legislation in two years and that the Senate will be included in that review.

The proposed section 21.18 (2) will read:

The standing committee of the House of Commons that normally considers matters related to industry shall assess all candidates for appointment to the advisory committee and make recommendations to the Minister on the eligibility and qualifications of those candidates.

The Senate had been left out of that process, but yesterday, in committee, we received, from the Minister of Industry and Minister responsible for the Economic Development Agency of Canada and for the Regions of Quebec, Madam Lucienne Robillard, a letter of commitment, in both French and English, to the chair of the committee, the Honourable Peter Stollery. That letter was tabled with the committee and, with the chamber's permission, I would seek unanimous consent to table this ministerial commitment in the Senate at this time.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: Leave is granted to table as requested.

Senator Corbin: The bill is supported unanimously by all parties involved: Canada's research-based pharmaceutical companies; the Canadian Generic Pharmaceutical Association; NGOs; and both Houses. Everyone supports this bill and I believe it is ready

to go forward. I am always mindful, as a former elected parliamentarian, that things like this happen because the taxpayers support it. I think that all of Canada supports this initiative, and I am proud of it.

Hon. Wilbert J. Keon: Honourable senators, this bill represents a great humanitarian act and a great act of leadership on the part of Canada, and we are all very proud to be part of it.

The bill will make it easier for countries in the underdeveloped world that cannot afford necessary drugs to have access to them. There is no question about that, and it is wonderful to see Canada leading in this field.

There are some problems with the bill. It is not perfect. However, as Senator Corbin has said, it will be reviewed in two years. I should like to re-emphasize that the Senate has the capability and the responsibility to ensure that the necessary changes occur and, in particular, to monitor what happens in the next two years and make the necessary judgment. I am convinced, as I said previously, that there will be serious problems such as diversion, counterfeiting, growth of foreign generic companies, a paradoxical increase in the number of AIDS patients in developing countries due to the lack of health care infrastructure, and a serious lack of confidence on the part of generic drug companies leery of making any kind of a significant investment to produce drugs without the long-term commitment from the government; they have only a two-year window. Honourable senators, something will have to be done about that — perhaps a review. We may have to go beyond a two-year renewal. I am deeply concerned because drug companies, in India for example, will exploit that market if we do not support Canada's generic drug companies.

• (1600)

Honourable senators, I fully endorse Bill C-9. We will review it in a couple of years.

The Hon. the Speaker: Are honourable senators ready for the question?

Hon. Senators: Question!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read third time and passed.

STUDY ON QUOTA ALLOCATIONS AND BENEFITS TO NUNAVUT AND NUNAVIK FISHERMEN

REPORT OF FISHERIES AND OCEANS COMMITTEE ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Comeau, seconded by the Honourable Senator Adams, that the Fourth Report of the Standing Senate Committee on Fisheries and Oceans, tabled in the Senate on April 1, 2004, be adopted and that, pursuant to rule 131(2),

the Senate request a complete and detailed response from the Government, with the Minister of Fisheries and Oceans being identified as Minister responsible for responding to the report.—(*Honourable Senator Watt*).

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, the Honourable Senator Watt had intended to speak to this item but informed me today that he does not now wish to speak, that he supports the fourth report of the committee and that he would like to see it passed.

Therefore, I propose that we do so.

The Hon. the Speaker: Are honourable senators ready for the question?

Hon. Senators: Question!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and report adopted.

ADVANCEMENT OF VISIBLE MINORITIES IN PUBLIC SERVICE

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Oliver calling the attention of the Senate to the barriers facing the advancement of visible minorities in the Public Service of Canada.—(*Honourable Senator Di Nino*).

Hon. Consiglio Di Nino: Honourable senators, I rise today to applaud and support Senator Oliver's statements made in this chamber about the barriers facing the advancement of visible minorities in the Public Service of Canada. Representing minority interests is one of the Senate's core responsibilities and, to be frank, I am dismayed at how this institution has repeatedly dropped the ball on the issue of minorities in the public service — an issue that goes to the heart of the Senate's mandate.

Canada is a country of immigrants. In this chamber alone, one out of every 10 senators was born outside Canada, including myself. In the other place, the number is closer to one out of every seven. There is no doubt that new Canadians make an enormous contribution to the economic and cultural prosperity of our nation. Despite this, new Canadians, particularly visible minorities, are conspicuously absent from the ranks of the Canadian public service.

The government's response to this problem has been wholly inadequate. In his speech, Senator Oliver outlined initiatives implemented by the government to address this issue. While hiring targets have been set to increase the representation of visible minorities in the public service, there has been little substantive change in hiring policies. Complaints of discrimination in the public service hiring process abound.

The barriers facing the advancement of visible minorities in the public service are most pronounced at the highest ranks. Currently, visible minorities hold fewer than 4 per cent of executive positions. This is particularly problematic because, as one senior PCO adviser points out, visible minority executives are crucial "to accelerating cultural change in the public service." The Public Service Commissioner has stated publicly that a diverse and multi-ethnic workplace can spur innovation and create new opportunities.

The lack of visible minority representation in the public service is also problematic because it reduces the government's ability to provide effective service delivery to the growing diverse communities in Canada. Alex Himelfarb, Clerk of the Privy Council, said:

We need to mirror the society we serve. Our relevance to citizens depends on how we see and understand Canadian society and how we respect the varied qualities of our shared citizenship. We are a public institution; we must reflect that public. Our professionalism is assured only if we are staffed by leaders and employees who reflect Canada's rich ethno-cultural diversity.

Canada's largest employer must reflect the reality of Canadian diversity. Between 1992 and 2001, the visible minority population in Canada grew at a rate five times that of the overall Canadian population. Our public service simply does not reflect this reality and the unique capacities of our nation. Senator Oliver and I have been talking about this issue for years and, truthfully, I am a little tired of the platitudes.

The number of immigrants in this country will only continue to grow, encouraged by our immigration policies and by Canada's need for qualified, skilled workers. Approximately one-half of Canada's immigrants are admitted to Canada under the category of so-called "economic immigrants" — that is, immigrants with specialized skills and training that will make an immediate positive impact on the Canadian economy. While private companies have leapt at the opportunity to expand their workforce to include these new Canadians, the government continues to lag behind in integrating them into the public service. Colleagues, this problem can be addressed. All we need is the will to do so.

• (1610)

One considerable restraint on alleviating this problem is the public service's hiring policies. The current practice of hiring senior public servants through internal competition means that competent visible minorities must start at the bottom and work their way up, making the realization of benchmarks at the executive level virtually impossible in the short term.

As I mentioned earlier, a considerable number of Canada's immigrants are skilled professionals and tradespeople. As Senator Oliver pointed out, another serious barrier faced by these immigrants is the recognition of foreign credentials. Canadians lose out when the talents of its immigrants cannot be put to work for the betterment of the nation. Canada should seriously consider updating its policies with respect to foreign credentials.

The PCO has also suggested — and I stress “suggested” — providing additional training to ensure the eligibility of currently employed visible minorities, such as language training, career counselling and management training. I welcome these suggestions, but talk is cheap. Action is what is needed. Let us get it done!

Honourable senators, we all recognize that new Canadians are essential to the social fabric of our nation. The Senate should investigate this issue further and make recommendations on real measures to address the barriers facing new Canadians in fully participating in and contributing to a better and stronger Canada.

As a matter of fact, at an early future opportunity, I hope Senator Oliver will join with me to initiate a motion to refer this issue to the appropriate standing Senate committee for a full study and recommendations. At this point, honourable senators, I should like to move adjournment of the debate in my name. For the remainder of time I have available, in case we have an opportunity to debate this further, particularly, I would invite the Chair of the Standing Committee on Internal Economy, Budgets and Administration to comment. Hopefully, she can shed some light as to the progress we have made so far.

On motion of Senator Di Nino, debate adjourned.

[Translation]

COMPETITION IN THE PUBLIC INTEREST: LARGE BANK MERGERS IN CANADA

INQUIRY—DEBATE ADJOURNED

Hon. Marcel Prud'homme rose pursuant to notice of Thursday, March 11, 2004:

That he will call the attention of the Senate to the sixth report of the Standing Senate Committee on Banking, Trade and Commerce entitled: “Competition in the Public Interest: Large Bank Mergers in Canada,” tabled in the Senate on December 12, 2002.

He said: Honourable senators, this is a matter very close to my heart, as I was a member of the Committee on Banking, Trade and Commerce. Since my aging memory may not be trustworthy, I have had to reread the documents relating to this matter.

The Senate had a mandate to address this important issue of bank mergers. I was a recently arrived member of the banking committee, which was under the skilled chairmanship of Senator Leo Kolber. On December 10, after having heard a variety of testimony from all the major bankers of Canada, we members of the committee reached the conclusion that we could recommend these mergers.

I had asked for a vote, and it was not recorded, but my memory of the event is flawless. I voted against the report, but I did agree to allow the committee to report to the Senate without any indication that there had been dissent among the committee membership.

My interests lie more with international affairs, national defence and CIDA than with banking, but since I was assigned to the banking committee rather than the one on foreign affairs, which I would like to be on before I die, I did my duty. This was the first time I had met bankers, including the presidents of the top five Canadian banks. Among the questions I asked these banking executives was one of particular concern to me: Who will be the spokespersons for the workers, the ones to defend the 242,000 employees of these banking institutions? How would the mergers affect them? It was pretty hard to get any answer to that. I recall that Senator Setlakwe asked that question.

[English]

I will quote him in English:

My concern is if the banks close shop, and we only have a few Caisses Populaires in Thetford Mines, will we be getting competitive service?

Remember, Senator Setlakwe is not Senator Prud'homme on Foreign Affairs. He is a banker; he knows money and business. He answered his own question. He said, “my answer is no.” He did not even wait for the bankers to answer.

I let things go on, and I was very thankful that Senator Lynch-Staunton — remember, this was tabled December 10, 2002 — was kind enough to let it die, without being prompted. Of course, he does not need any prompting from me. “Prompt” means push, and I respect him too much for that.

In passing, Senator Lynch-Staunton sat on the Montreal municipal council with my father. My father was the eldest councillor and Senator Lynch-Staunton was the youngest. You can imagine the stories.

The much respected Senator Lynch-Staunton took the same kind of motion and let it die. I thank him for that, because I thought it was inappropriate. I wanted to wait a little bit more, to see what would happen in the year or two following the adoption of that report. Senator Lynch-Staunton stood the order, as did everyone else and that made me happy. We then came to the end of a session. On March 23, 2003, I introduced in the Senate, and I thank our able staff for their counsel, a motion calling the attention to the Senate to the sixth report of the Standing Senate Committee on Banking, Trade and Commerce, entitled “Competition in the Public Interest: Large Bank Mergers in Canada,” tabled in the Senate on December 12, 2002.

I let it stand. No one took the floor, so it is now day 11 and we are about to prorogue. Strangely, however, I do not know if I was close to Mackenzie King, who I met when I was with my father at 13 years old, but I think I saw the future in a crystal ball when I say, “I do not think we should pass this at this time.” I forecast in the year 2002 that there would be an election in early or late spring 2004. I do not think it is wise to have such dramatic change at this time. I know bankers want clear-cut rules so they can function better.

• (1620)

What do you think, Mr. Clark? Ask a banker, a great, well-paid — and some say bankers are too well paid — executive banker. That banker might say that, if the proposal were put forward, it would be bought right away. That means my proposal was not too extravagant. They may say, wait for a new government to do it.

We know that commitments could be made soon. Perhaps on June 30, the Minister of Finance should reflect on the mergers. Senator Kelleher, rightly so, had a civilized exchange with Senator Austin, our able Leader of the Government in the Senate. They even talked about the colour of their ties on that day, if I remember well.

On December 21 last, Senator Kelleher asked what would happen — because this day was definitely coming. I am of the opinion, stronger than ever, that this government, which may be heading into an election, should make no announcement on the question of mergers before June 30. I am a parliamentarian, but I am also someone who likes politics.

By the way, I will make five speeches in the Toronto region, starting on Friday and continuing on Saturday, Sunday, Monday and Tuesday. The audience will not be partisan, but I will convince them of the greatness of Canada. I will probably talk a little bit about how I will vote in the next election.

What worries me is that this is not the time to take a great decision on mergers, that is, before June 30. Let the universe unfold, as Mr. Trudeau so ably said, at least until the new government, of whichever stripe it may be — I do not want to be partisan — has time to reflect and come to the next session with clear-cut rules on the question of bank mergers. That new government can reflect on our committee's work. I asked for a vote — I repeat that I only asked once — but the Banking Committee is not accustomed to taking a recorded vote. Of course, I was a minority of one. I think it would be wise, before a major decision is taken, that the government reflect and not take a decision on banking.

I am so happy to participate. I went to China with Senator Day, who so ably presided over the Asia-Pacific Parliamentary Forum with Mr. Nakasone from Japan. I helped build that association alongside Mr. Nakasone in 1991 and now it is flourishing. However, I am no longer active in that association because I am supposed to be independent. I am most thankful to those who were responsible for sending me there.

During that time the new Minister of Finance, Mr. Goodale, expressed his worries about banking. I am sure he did not read my intervention; it was not a classic intervention on financial matters. However, he repeated, almost word for word, my concerns. I am concerned about what will happen to small provinces. Will there be competition in Saskatchewan? You will note that I try to avoid commenting on Quebec. However, Mr. Goodale mentioned Saskatchewan and he, of course, comes from that province. He does not come from Main Street or Bay Street; he comes from the

real Canada that we love so much and that may not be well served if there is no competition. Mr. Goodale has said he has concerns about that. He worries about the small villages and about the small provinces, and that is good.

Mr. Goodale also worries about the impact of any decisions that are made. Honourable senators will remember that 200 bankers did not know how many employees they had until I asked them the question. I told the bankers that they should stop paying immense amounts of money to lobbyists of all kinds, very expensive lobbyists, and to employ their 232,000 employees as daily public relations officers for their banks. Their response was: "My God, what a good idea." One even said, "If you ever quit politics, maybe we would want to have you around." I said, "Not me!" However, that means I am not too far out in thinking about the protection of the small people as a priority, thousands of whom live and work in my area.

Senator Munson looks concerned. I know the vote is at 5:15 p.m., so perhaps I should stop now.

Honourable senators, those are my views. I am not in favour of this, but this is the first time I have a chance to express that. My concerns have been well expressed by the new Minister of Finance. I believe there will be more order if no decision is taken before June 30 on such an important matter as banking.

I therefore conclude my speech, although I wanted to take a full 15 minutes.

On motion of Senator Day, debate adjourned.

IMPORTANCE OF PARLIAMENTARY AND INTER-PARLIAMENTARY ASSOCIATIONS

INQUIRY—DEBATE ADJOURNED

Hon. Marcel Prud'homme rose pursuant to notice of May 11, 2004:

That he will call the attention of the Senate to the importance of Parliamentary and Inter-Parliamentary associations.

He said: Honourable senators, once again I call your attention to the importance of parliamentary and inter-parliamentary associations and why I attached so much importance to them.

I have written two reports on this subject. The board of internal economy of the House of Commons requested the first one in 1993. I was seconded by the House of Commons to prepare that report, even though I was a member of the Senate.

The opening paragraph in my first report stated that federal parliamentarians simply must have a working knowledge of and sensitivity to what is happening in the world today.

[Translation]

I find it unbelievable that a senator or a federal member of Parliament appears to be apologizing for having international concerns. That seems absurd to me.

Second, I feel it is very important for a parliamentarian who, like me, has international concerns to be aware of what is going on around the world. One has to be educated. Education is necessary, it is essential.

As an aside, I would like to tell you why I find it so important. I wish those in charge would read this 1993 report. I recently returned from Mexico where I went on Inter-Parliamentary Union business — thank God, I have been blessed with being sent back to my first love, the Inter-Parliamentary Union, where I have difficulty ensuring a degree of continuity. I understand my role as an independent senator, and I accept it.

One of my colleagues, Senator Fraser, had the great honour of being elected chair of the coordinating committee of the Women Parliamentarians of the World.

[English]

That is a great honour for Canada.

• (1630)

One of the most controversial discussions that takes place and which divides the world and divides Canadian delegations is the Middle East. Guess what? This year, for the first time, we did not need to vote on it. Why? Because of the sagacity, the patience and the intelligence of the drafting committee. Who sat on the drafting committee? I could name all the countries. Canada was always asked by the Europeans, because they want to keep away from that. They say, "We propose Canada," so of course Canada was on the drafting committee. No one wanted to chair this hot potato, so they said, "We will choose the Canadian delegate," and the Canadian delegate, representing the West, was no one else but Senator Carstairs. I want to say here on record that she did such remarkable work that, for the first time, not only was there no division, among the Canadians, or among the membership, when the time came to vote but it passed unanimously, even though we had to play a little. There was some reluctance by Israel, rightly so, and some by the Palestinians, rightly so. Some people managed or massaged the Israeli delegation so that they would not object. I took charge of the Palestinians. I said to Senator Carstairs, "Do not worry; that is all there is against unanimity." I stood up in front of 1,000 parliamentarians, and I went directly in front of the Palestinian delegation. Senator Fraser was there. To their amazement, I spoke with passion, because I know them, and I know the Israelis, too. They were divided.

That is one of the advantages of paying attention to what is going on around the world. I cannot understand parliamentarians ducking and going on television and being afraid to say that they just arrived from a great trip. They call that a trip. A trip is something different in my book. I spoke about the importance of

parliamentary associations, and I gave you a very good example where some of our colleagues were elected to the highest positions.

In my report of 1993, I spoke of the importance of the Canada-United States Parliamentary Association. I did not wait for any war, and I did not have any knife at my throat. I said if we were to abolish every parliamentary association because of one reason or another, the one that should survive, because of our economy and our neighbourliness, is Canada-United States. That was in 1993.

Then I made a very special call to the whips. I said that the time has come for whips to remember that Canada is not only Ontario and Quebec. It is time that they remember there are people from across Canada, and also it is time that they remember that there are women in Parliament. As such, they should be part of it. I did not wait until last week to say that. I said it in my first report, the Prud'homme report, as they called it, in 1993.

I mentioned women, and I want to make another remark. Mr. Paul Martin, I am talking to you publicly. Show the world that Canada can be in the vanguard by having the representation in one of the Houses of Parliament at 50-50. It is difficult to find women in the other place because they are elected. Well, the Prime Minister has an option; he can appoint here in the Senate. There will be 40 vacancies in less than a year. Until we reach 53 women and 52 men in the Senate, only women should be appointed, and after that we could have a balance. He could do that within a year and a half by appointing a couple of old-timers. What a good example that would show to the rest of the world, having one of the two Houses of Parliament in Canada at 50/50, because we have the option in this country to do so.

Having said that, I also pay homage to Your Honour's wife. She is so patient, and she works so hard, and she is so supportive in receiving international parliamentary delegations. She is an asset to Your Honour and the work that you do.

Hon. Senators: Hear, hear!

Senator Prud'homme: I want her name to be on the record. Kathy is a gracious and elegant hostess who plays such a great role, often looking after the diplomatic corps and the various international parliamentary groups or parliamentarians of countries around the world. We neglect to pay homage to the people who do these things.

It is not enough to be a member of a parliamentary association and ask, "When is the next trip?" I do not organize, and I am not a travel agency. You have responsibilities when you join a parliamentary association. I talk directly now to the whips, for the future.

There is another report I was asked to write, because there was such a big problem. This is the first time you have heard this. There was a lack of comprehension by the Alliance Party on the importance of parliamentary associations. One member of the Board of Internal Economy in the other place said only one guy

[Senator Prud'homme]

can smooth things out, and they put me with Mr. Strahl. They called it the Strahl-Prud'homme report of 1999. We worked so well together that when the time came to vote the budget, I made sure that everybody would shut up and let it be proposed by Mr. Strahl, seconded by some Liberal member, and it worked very well.

These two reports had a continuity in my life and in the life of parliamentarians of the importance of parliamentary associations. We must remember that there are women. We must remember that there are regions. We must also understand that there must be continuity.

Some people have been sitting on too many associations for too long. We do not own parliamentary associations. There must be a breath of fresh air. Thus, you will see me very active in the next Parliament, if God lets me get through the summer. I will be active, but I will not run for any association, regrettably. However, I will be actively implementing the spirit of my two reports that were accepted by both the Board of Internal Economy and the Standing Committee on Internal Economy, Budgets and Administration. They pick and choose. It goes together. At least, they are moving.

Mr. Armitage has been talking about this, and I thank him publicly for helping me draft a few pages of it.

If you do not believe in what you are, well, sometimes I am rude and say, "Get out of the Senate," or, "Get out of the House." We have a collective responsibility to be well briefed. That is why I am so active. You saw me today and last week talking about the job of the Standing Senate Committee on Foreign Affairs. I am, in my own way, involving members by bringing in members of various parties, of various houses, to make them realize that we are federal members of Parliament, not provincial members of Parliament, or municipal councillors. We must have international concerns. We must have international knowledge. If we have both of those things, why would you be scared of talking directly to Mr. Aubry from the *Citizen*, as I do, in a civilized way? If you believe it is important to belong to a federal system, then you must believe that there are federal responsibilities.

• (16:40)

I tell honourable senators that I was elected for 30 years in my district and I never ducked. They were so honoured when they saw Marcel with the Pope and the Queen of Canada. I hope the CBC will stop calling her "the Queen of England." Until such time as we change the system, she is the Queen of Canada. I say that as a French Canadian. We cannot change history to please this one or that one.

[Translation]

It is the Queen in right of Canada, of course — the honourable Senator Lapierre is a better historian than I am; I find that thought comforting — until it is decided otherwise.

[English]

One of the last interventions I will make on this subject is to say to not be afraid to defend the importance of parliamentary exchanges and inter-parliamentary associations. One of the greatest geniuses of international politics was my tutor, Professor Giulio Andreotti. He is Foreign Affairs Chairman of the Senate and one of nine lifetime senators in Italy. He told me about the importance of parliamentary diplomacy. Over the years I have increasingly heard people speaking about parliamentary diplomacy. We started that concept with great difficulty in the IPU when the world was divided, unfortunately, into West versus East. Of course, I have trouble with some colleagues, whom out of graciousness I will not mention. What do they want me to add to European delegations?

There is Marcel Prud'homme, always with one or two colleagues, with the non-aligned countries and the Eastern countries. Then, of course, Canadian security gets worried; they bug you and do everything.

If one believes what one is doing is right, go for it. However, do not only ask when the next trip is. There is local responsibility. It is all very well to go abroad, but one had better first attend the briefing meetings. When a parliamentarian returns to Canada, he or she should be debriefed, as some countries do with their parliamentarians. Briefing and debriefing are important. Also, when foreigners visit us, we have a moral and political responsibility to offer our services and not to say, "I cannot be there" or "When is the next trip?" What parliamentarians want to do abroad they must do here.

I could go on describing the two reports, but I will not do that. I will, however, add one comment because a new Parliament is around the corner. I hope that the strong-willed people I see and can name will implement the suggestion that no parliamentarian should sit on more than one executive. Parliamentarians cannot devote their time to their districts, their occupations or their committees and be members of two or three executives. They have to share. I choose the IPU, with great difficulty.

I thank honourable senators for their patience. Let us move forward in the next Parliament. Let us get involved. Let us not be afraid to tell Canadians about the importance of parliamentary exchanges, inter-parliamentary associations and bilateral groups. Do not call them friendship groups; that is hypocrisy. They are parliamentary groups composed of two countries. Our ultimate goal is to help people in the world who are opening up to our kind of democracy.

Hon. Senators: Hear, hear!

Hon. Joan Fraser: Honourable senators, I promised Senator Prud'homme that I would speak to his inquiry, but I shall be brief. There may not be many more occasions when I will be able to keep my promise to Senator Prud'homme.

I agree with a great deal of what he said about the importance of these parliamentary associations. I think we really should work a little harder at explaining to the people of Canada how important they are and how they serve this country's interests.

These associations serve Canadians in two ways. I speak largely from my experience in the Inter-Parliamentary Union, but I am sure it is true of the other associations as well. First, they help us to broaden and deepen Canada's influence abroad. I have seen in the IPU the influence that Canada wields, way beyond what one might expect from a country of our size, because we are able to carry our principles and our experience into forums where our principles and our experience are valuable. We advance our interests within the IPU, for example. Canada has been able to do serious work to advance, among many other causes, the anti-personnel land mines treaty; the cause of the International Criminal Court; and, on a more general basis, the cause of the equality of women, the latter of which was piloted by our former colleague Senator Finestone, who did wonderful work in the IPU for many years.

It is all very well for us to say that women have made it. Even in Canada, women have not really made it as much as we sometimes think. However, much of the rest of the world has many miles to go, and we have an influence. This country's delegates have had a serious influence in helping to advance the status of women in other Parliaments. I have seen that with my own eyes.

We broaden Canada's influence and we increase the respect in which Canada is held by our peers in other countries. We also learn. We learn as legislators in a way that we cannot possibly learn anywhere else. We learn by living with our peers for the purposes of these meetings, and by learning from them and their experiences. We learn about their political interests and their structural experiences. We learn an infinite number of things that we could not learn in any other way. We bring back the benefit of that experience to our work here as legislators. It is precious work. I know that I am a better senator — I may not be that great a senator, but I know I am a much better one for the benefit that I have gained dealing with legislators from around the world in the IPU.

I offer several observations about things that might be improved in the way Parliament approaches these matters. The first relates to resources. The IPU — although I believe this relates to all parliamentary associations — tends to get short shrift when budgets are being allocated. We all know there is not enough money for parliamentarians in general, but parliamentary associations tend to take a back seat when budgetary priorities are being set, which I think that is a great pity.

Second, we need to rethink the way in which we determine the composition of delegations. There is not, in my view, enough continuity. I am certainly not arguing that anyone should have rights in perpetuity to a seat on these delegations, but I have been impressed when I see what some other countries do to ensure continuity, which works to the advantage of those countries. The Scandinavian countries, for example, tend to name a certain number of members as their country's delegation to a given parliamentary association for the duration of a Parliament. It is not a lifelong sentence or privilege, but it allows for the creation of some institutional memory within that delegation and, hence, for the deepening and broadening of that delegation's influence in these international fora.

• (1650)

We should look fairly carefully at some variation on that theme, perhaps, but in any event at some way in which to give a better guarantee of institutional coherence and continuity in our delegations, not only on the government side but also among opposition parties, both in this chamber and in the other place. That might be worth examining as part of the democratic reform which has been exercising some of our finest minds.

Those are my thoughts. I thank Senator Prud'homme for raising this issue. I think it is an important one, and we should all be grateful to him for bringing it to our attention.

Hon. Senators: Hear, hear!

The Hon. the Speaker: I see a number of senators rising. Are some senators rising for questions?

Hon. Joseph A. Day: Your Honour, I do not have a question. I was about to make a comment and then seek the adjournment, but I can make a short comment and then let my colleague take the adjournment.

Hon. Rose-Marie Losier-Cool: I do not wish to take the adjournment. I would like to say a few words on this item.

The Hon. the Speaker: Well, Senator Day has a comment or a question, and we will deal with the comments and questions first and then go to Senator Losier-Cool for her speech.

Senator Day: Honourable senators, I would like to speak briefly on this inquiry and thank the Honourable Senator Prud'homme for bringing this matter to our attention.

This is an extremely important issue. I share the passion that has been shown by Senator Prud'homme with respect to the parliamentary associations and the potential for putting a face on Canada internationally through parliamentary associations.

I have had the good fortune of travelling with Senator Prud'homme on parliamentary business to parliamentary associations, most recently to the Asia-Pacific Parliamentary Forum. I have seen the seriousness with which Senator Prud'homme takes his responsibilities when he is chosen as a member of a delegation and the effectiveness that can be displayed and shown when one does take one's responsibilities seriously.

My understanding is that he is the founding chair of no less than five parliamentary associations in his illustrious career of 40 years as a parliamentarian, and I applaud him for that. I look forward to continuing to work with Senator Prud'homme and other honourable senators in advancing the work of parliamentarians and of Canada through parliamentary associations.

I believe, honourable senators, that we as senators have, by virtue of our institutional knowledge and abilities to continue over a period of time in various parliamentary associations, a wonderful and an important opportunity to serve Canada and Parliament through the Senate on parliamentary associations.

I would endorse the words of Senator Prud'homme, and I am hopeful that we will continue this inquiry when Parliament returns.

The Hon. the Speaker: I should clarify. I thought, for instance, that Senator Day had only a comment but he wanted to speak, and he has spoken. I know Senator Losier-Cool wants to speak.

Do you wish to speak, make a comment or put a question, Senator Trenholme Counsell?

Hon. Marilyn Trenholme Counsell: It is just a brief comment on Senator Prud'homme's presentation.

Senator Kinsella: I urge the honourable senator to proceed.

Senator Trenholme Counsell: Thank you very much, honourable senators. I enjoyed very much what the Honourable Senator Prud'homme had to say, and the wisdom and experience that he displayed. I did not expect to have a chance to speak about the unexpected but wonderful experience that I was privileged to have at the Canada-Europe Parliamentary Association encompassing the Council of Europe. I mention this because you can imagine the range of topics that were discussed there, but one of the major ones was that of euthanasia. In the preamble to this discussion and these papers on euthanasia, there were some words about palliative care, but in my opinion not enough, so I chose and was given the privilege to speak on euthanasia, but especially on palliative care.

I want to say to Senator Carstairs that I referred extensively to her report on palliative care and that the people of those European countries and everyone there was most interested in that report. Of course, palliative care is mentioned in the reports of Romanow and of Kirby, and in the most recent book by Dr. Rachlis but, as our esteemed senior senator has said, we had an opportunity, and I was so surprised that I was able to offer anything. However, they were most interested in the work of Senator Carstairs and her report on palliative care, and I found myself engaged in quite an extensive debate with people there, thanks to the work of our Senate and the opportunity to be there. It reflected well on Canada.

I wish to thank you for your intervention today, Senator Prud'homme.

[Translation]

Senator Losier-Cool: Honourable senators, I would like to talk very briefly about the Assemblée parlementaire de la Francophonie. I would also like to say a few words about Senator Prud'homme's comment that several parliamentarians are members of their association executive. The Canadian branch of the APF does not accept parliamentarians who are already sitting on the executive or the board.

Canada occupies a place of honour within the Assemblée parlementaire de la Francophonie. Many members are African countries and Canada has distinguished itself with its CIDA program. Every time I get the opportunity to speak, whether at meetings of the Network of Women Parliamentarians of La Francophonie — of which I am the vice-president — or other board meetings, I always mention CIDA. Today, we passed Bill C-9, which will help developing countries. Canada is one of the leaders in this field.

I simply wanted to add these few comments and conclude by saying that it is true that we learn from other parliamentarians at inter-parliamentary association meetings.

On motion of Senator LaPierre, debate adjourned.

[English]

The Hon. the Speaker: Honourable senators, as you know we have an order for a vote on an amendment to Bill C-3, at 5:30 p.m.

We have completed our business. Accordingly, pursuant to rule 7(2), the sitting of the Senate is suspended until 5:15 p.m., whereupon the bells to call in the senators will be sounded until 5:30 p.m.

I will now leave the Chair for the suspended sitting until 5:15 p.m. May I have agreement, honourable senators, that I return to the Chair just before the 5:30 vote?

Hon. Senators: Agreed.

The sitting of the Senate was suspended.

• (1715)

The Hon. The Speaker: Call in the senators. The vote will take place at 5:30 p.m.

• (1730)

CANADA ELECTIONS ACT INCOME TAX ACT

BILL TO AMEND—THIRD READING MOTION IN AMENDMENT—VOTE DEFERRED

On the Order:

Resuming debate on the motion of the Honourable Senator Mercer, seconded by the Honourable Senator Munson, for the third reading of Bill C-3, to amend the Canada Elections Act and the Income Tax Act.

And on the motion in amendment of the Honourable Senator Lynch-Staunton, seconded by the Honourable Senator Kelleher, P.C., that the bill be not now read a third time but that it be amended in clause 27, on page 14, by replacing lines 30 to 36, with the following:

"comes into force on June 27, 2004."

Motion in amendment negated on the following division:

YEAS
THE HONOURABLE SENATORS

Cochrane	Lynch-Staunton
Di Nino	Nolin
Eyton	Oliver
Forrestall	Plamondon
Keon	Tkachuk—11
Kinsella	

NAYS
THE HONOURABLE SENATORS

Atkins	Hubley
Austin	Kroft
Bacon	LaPierre
Banks	Léger
Biron	Losier-Cool
Callbeck	Maheu
Carstairs	Mercer
Christensen	Merchant
Cook	Milne
Corbin	Moore
Day	Morin
Fairbairn	Munson
Ferretti Barth	Murray
Finnerty	Pearson
Fitzpatrick	Phalen
Fraser	Ringuette
Furey	Robichaud
Graham	Rompkey
Harb	Smith
Hervieux-Payette	Trenholme Counsell—40

ABSTENTIONS
THE HONOURABLE SENATORS

Nil

The Hon. the Speaker: Honourable senators, we are now resuming debate on the main motion.

Hon. David Tkachuk: Honourable senators, I rise to speak at third reading of Bill C-3, to amend the Canada Elections Act and the Income Tax Act. The summary of the bill states that it is the government's response to the decision of the Supreme Court of Canada in *Figuroa v. Canada (Attorney General)*. The bill proposes to impose a lower threshold on the number of candidates that a political party must field before it will be recognized as such under the Canada Elections Act and Income Tax Act, cutting the number from a minimum of 50 candidates to a single candidate. If the government is not prepared to eliminate a candidate threshold altogether, as the Supreme Court seems to have required, I find it surprising that the government has decided on an absurdly low threshold rather than something reasonable.

The question that arises is this: What is a genuine political party, and who decides the parameters? The bill itself provides, for the first time, a definition, which is, and I quote from clause 1:

...an organization one of whose fundamental purposes is to participate in public affairs by endorsing one or more of its members as candidates and supporting their election.

This is not a very high standard. It is not onerous, but it does require that a political party name at least one candidate for election. Luckily, the bill does not stop there or we might be swamped by organizations trying to take advantage of the tax receipt provision for political parties, as well as trying to obtain some of the free broadcasting time available during elections. It is surprising that the government decided on this low threshold rather than something reasonable.

It will surprise no one to find that this government's solution is to add a layer or two of red tape to discourage new parties, including the signatures of 250 supporters, appointment of officers, audited financial statements and the possibility of severe penalties. This bill does not comply with the decision of the Supreme Court; it just pretends to do so. The insertion of a so-called "sunset clause" means that the government has effectively decided not to deal with the matter now, but has instead put off making a real decision until sometime in the future.

As Senator Lynch-Staunton noted, a requirement for one candidate is still a threshold. That clearly means that the government believes that the decision of the Supreme Court is wrong. Even if Bill C-3 passes as it stands at the moment, we already know there will be additional legal actions — witnesses have said as much. It will surprise no one to find that this government's solution is to add a layer or two of red tape to discourage this kind of action because there are other benefits provided to political parties based on other kinds of thresholds.

The decision itself was the result of an action that was a bit far-fetched, Professor Nelson Wiseman of the University of Toronto did not mince words in his testimony regarding the decision. He said:

...I was flabbergasted by it, although not completely surprised given the court's record on electoral law...

Time limitations in committee meant that he was unable to provide a complete explanation, but this is what he did say:

As an academic, let me begin by hovering above these concerns and touching on the Supreme Court's thrust in terminology; the rationale for its decisions.

Two platitudes and imprecise phrases on which it constructs its judgment are: effective representation and meaningful participation. These are highly contested and elastic terms that, like rubber bands, can be stretched in different directions. The court, in my respectful opinion, is poorly trained and equipped to spell out what these terms should mean in theory or in practice. This is more properly the work of the political classes rather than the legal class. That is, it is better addressed by politicians, public administrators, political scientists, political philosophers — and the public itself, through the exercise of the franchise.

I find the court's very entertaining of the Charter challenges to our electoral law somewhat problematic. In its landmark 1981 patriation reference case decision, the court cited provincial election acts as part of provincial constitutions. By extension, federal election acts may be considered as part of the Constitution of Canada. Since the court has also ruled that all elements of the Constitution must be considered together in judging conflicts between them, then in my opinion the Charter ought not to be unquestionably trumping Parliament's electoral acts.

He later continued:

To some, this permits a welcome measure of flexibility. To others, including myself, it means continued uncertainty, perpetual challenges and a further marginalization of parliamentarians.

In my opinion, the court has been undermining rather than buttressing the integrity of the electoral system, a system which, since the 1970s, has become more accessible, transparent, open and participatory than at any earlier point in our history.

• (1740)

Professor Wiseman's comments raise a serious concern about judges making laws rather than Parliament. Phrases such as "effective representation" allow almost unlimited scope for twisting the result in any direction. When the term was used in previous decisions relating to electoral law, it was not regarding the political process or political parties, but, rather, it was used in deciding questions about how to divide a province into electoral districts. "Effective representation" meant that each vote should have approximately equal weight.

A series of leaps and bounds took the reasoning of the court from the Charter right to vote to a right to effective representation and on to a right to meaningful participation. The court said that it was using a "broad and purposive approach". On this point, Mr. Justice Dickson, in *R v. Big M Drug Mart Ltd.*, 1985 stated:

At the same time it is important not to overshoot the actual purpose of the right or freedom in question, but to recall that the *Charter* was not enacted in a vacuum and must therefore, as this Court's decision in *Law Society of Upper Canada v. Skapinker*, [1984] 1 S.C.R. 357, illustrates, be placed in its proper linguistic, philosophic and historical contexts.

I am not a lawyer, but I have to wonder if the authors of section 3 of the Charter of Rights and Freedoms would have thought that the plain words, "Every citizen of Canada has a right to vote in an election of members of the House of Commons," would one day be given the broad meaning inserted by the Supreme Court. Certainly, the historical context, which Mr. Justice Dickson indicated should be taken into account, suggests a plain meaning would be appropriate. It seems that the Supreme Court did overshoot the actual purpose of the right to vote contained in section 3 of the Charter.

The history of the right to vote in Canada is one in which various groups and classes of individuals were prevented by law from marking a ballot and voting. This was the case at Confederation under varying rules in each of the provinces. Restrictions included both large and small groups, including those on social assistance, Indians, various categories of civil servants, teachers, those convicted of certain crimes, those of Chinese origin and, perhaps most infamously, women. There were also restrictions based on age, property ownership, annual income and annual rent.

It was against this backdrop, with a lengthy history of exclusions from the vote and the correction of these exclusions, that the Charter of Rights and Freedoms was written. Even after the Charter, in other words in recent times, Parliament has tried to block the right of prisoners to vote. The plain wording and meaning of section 3, therefore, cannot be taken as mere motherhood statements, but as more of a conscious decision to protect a basic right.

All this leads me back to thresholds. If the government is prepared to accept the Supreme Court's argument that a threshold of 50 is too high, but that a threshold is still an acceptable requirement for registration of a political party, we ought to choose one that is more meaningful than the single candidate threshold now proposed by Bill C-3.

The other place requires that a party have 12 elected members before it receives the advantages of being recognized as a party. Since a political party that nominated fewer than 12 candidates cannot achieve recognition as a party in the other place, it seems reasonable to me that any party that seeks to be registered as a national party under the Canada Elections Act ought to be required to field at least that number.

MOTION IN AMENDMENT

Hon. David Tkachuk: Accordingly, I move, seconded by the Honourable Senator Oliver:

That Bill C-3 be not now read a third time but that it be amended:

(a) in clause 5,

(i) on page 3,

(A) by replacing lines 18 and 19, with the following:

"registered party, if it has candidates whose nomination has been confirmed in at least 12 electoral districts for a general",

(B) by replacing line 22 with the following:

"writs for that election and has not been",

(C) by replacing lines 27 and 28 with the following:

“general election if it satisfies the requirements of”,
and

(D) by replacing lines 32 to 39, with the following:

“the close of nominations, inform the leader of an
eligible party whether or not the party has been
registered.”, and

(ii) on page 4, by replacing line 5 with the following:

“the writs for that election.”;

(b) in clause 16, on page 7, by replacing line 9, with the
following:

“endorsed a candidate in at least 12 electoral districts.”;
and

(c) in clause 23, on page 11, by replacing line 43, with the
following:

“participating in public affairs by endorsing 12”.

An Hon. Senator: Question!

The Hon. the Speaker: It is moved by the Honourable Senator
Tkachuk, that Bill C-3 be not now read a third time —

Senator Carstairs: Dispense.

Senator Kinsella: Dispense.

The Hon. the Speaker: Honourable senators, are you ready for
the question?

Hon. Senators: Question!

The Hon. the Speaker: Those in favour of the motion in
amendment will please say “yea.”

Some Hon. Senators: Yea.

The Hon. the Speaker: Those opposed to the motion in
amendment will please say “nay.”

Some Hon. Senators: Nay.

The Hon. the Speaker: I believe the nays have it.

And two honourable senators having risen:

The Hon. the Speaker: Call in the senators.

Senator Tkachuk: Pursuant to rule 67(1), I ask that the vote be
deferred until tomorrow at 5:30 p.m.

The Hon. the Speaker: It is in accordance with the rules.

Senator Mercer: Why not Saturday morning?

Some Hon. Senators: Oh, oh!

The Hon. the Speaker: The vote on the motion in amendment
will take place tomorrow at 5:30 p.m., the bells to ring at
5:15 p.m.

BUSINESS OF THE SENATE

Hon. Bill Rompkey (Deputy Leader of the Government): Would
His Honour ask if there would be a consensus to suspend the
sitting now to the call of the Chair for the purposes of Royal
Assent later this evening? It had been agreed that we would have
Royal Assent, and it is in process at the moment. I would seek
agreement to suspend the sitting to the call of the Chair for that
purpose.

Senator Forrestall: When will it be?

Senator Rompkey: At 7:30 p.m.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition):
Honourable senators, in 12 minutes' time it will be six o'clock and
we could be asking for agreement not see the clock. My
understanding is that Her Excellency is signing, by written
assent, a number of bills at seven o'clock and the message should
be back here at about 7:15 p.m., if we understand the phrase,
“to the call of the Chair” to mean around 7:15 p.m.

Senator Rompkey: Agreed.

The Hon. the Speaker: To clarify, my understanding of the
agreement is that we now suspend our proceedings to reassemble
at the call of the Chair, which will be approximately 7:15 p.m.
Perhaps we should have the bells ring five minutes prior to
7:15 p.m.

Hon. John Lynch-Staunton (Leader of the Opposition): Can we
not be given a time certain? That would be much easier.

Senator Rompkey: If everyone understands that we must be here
at 7:15 p.m., that would be preferable. If His Honour returns to
the Chair at 7:15 p.m., and we all understand that we must be
here, that would be better.

The Hon. the Speaker: Is it agreed that the sitting be suspended
to the call of the Chair at 7:15 p.m.?

Hon. Senators: Agreed.

The Hon. the Speaker: The sitting is suspended until 7:15 p.m.
As that time falls between six o'clock and eight o'clock, I take it
that it is agreed that we not see the clock?

Hon. Senators: Agreed.

The sitting was suspended.

• (1920)

[Translation]

The sitting of the Senate resumed.

ROYAL ASSENT

The Hon. the Speaker informed the Senate that the following communication had been received:

RIDEAU HALL

May 13, 2004

Mr Speaker,

I have the honour to inform you that the Right Honourable Adrienne Clarkson, Governor General of Canada, signified royal assent by written declaration to the bills listed in the Schedule to this letter on the 13th day of May, 2004, at 6:56 p.m.

Yours sincerely,

Curtis Barlow
for Barbara Uteck
The Secretary to the Governor General

The Honourable
The Speaker of the Senate
Ottawa

Bills assented to Thursday, May 13, 2004:

An Act to amend the Parliament of Canada Act
(*Bill C-24*)

An Act to change the names of certain electoral districts
(*Bill C-20*)

An Act to amend the Canada National Parks Act
(*Bill C-28*)

An Act to implement treaties and administrative arrangements on the international transfer of persons found guilty of criminal offences (*Bill C-15*)

An Act to implement certain provisions of the budget tabled in Parliament on March 23, 2004 (*Bill C-30*)

An Act to amend the Patent Act and the Food and Drugs Act (The Jean Chrétien Pledge to Africa) (*Bill C-9*)

[English]

CANADA ELECTIONS ACT INCOME TAX ACT

BILL TO AMEND—ALLOTMENT OF TIME FOR DEBATE—NOTICE OF MOTION

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I rise, pursuant to rule 39, to inform the chamber that I have had a discussion with my counterpart, the Deputy Leader of the Opposition, about the disposition of Bill C-3, to amend the Canada Elections Act and the Income Tax

Act. It has not been possible to reach an agreement concerning the time to be allocated for the third reading of this bill. Therefore, pursuant to rule 39, I give notice that, at the next sitting of the Senate, I will move:

That not more than a further six hours of debate be allocated for the consideration of the third reading stage of Bill C-3, to Amend the Canada Elections Act and the Income Tax Act;

That when debate comes to an end or when the time provided for the debate has expired, the Speaker shall interrupt, if required, any proceedings then before the Senate and put forthwith and successively every question necessary to dispose of the third reading stage of the said bill; and

That any recorded vote or votes on the said question shall be taken in accordance with rule 39(4).

POINT OF ORDER

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I rise on a point of order.

As Senator Rompkey will discover if he reads rule 39(1), a notice of motion for time allocation can only be brought forward "for consideration of any stage of consideration of any adjourned debate on any item of government business." We are not on an adjournment of any item of government business. We are not adjourned on the matter of Bill C-3. The position we are in is that we are at the stage of a division, which has been called and which has been deferred. Therefore, he will have to wait until tomorrow when we are on the item that is subject of debate.

Rule 39(1) on page 39 of the *Rules of the Senate* states:

At any time while the Senate is sitting, the Leader of the Government in the Senate or the Deputy Leader of the Government in the Senate, from his or her place in the Senate, may state that the representatives of the parties have failed to agree to allocate a specified number of days or hours for consideration of any stage —

— and I underscore this —

— of consideration of any adjourned debate on any item of government business.

The rule is very clear. The time to do that is when the matter is subject to debate, and it is not; at this time it is subject to a division.

Hon. Bill Rompkey (Deputy Leader of the Government): I would argue, honourable senators, that it is in order for the Deputy Leader of the Government, at any time, to give a notice of motion. I would argue that the debate is adjourned. We are obviously not debating it. I would argue that the notice of motion is in order and should be allowed.

The Hon. the Speaker: It is Senator Kinsella's point of order and I will return to him, but do other senators want to intervene?

Senator Kinsella.

Senator Kinsella: I would refer His Honour, in deciding this point, to *A Glossary of Parliamentary Procedure*, Third Edition, January 2001, which has been published under the authority of the Clerk of the House of Commons, where he will find "adjournment of debate" defined as follows:

Often a dilatory tactic which may be employed to delay progress on a question. If a motion to adjourn a debate is adopted, the item is not dropped from the Order Paper but may be taken up again on a later day.

We know what adjournment of a debate is. We are not in the state of an adjourned debate. We are in the state of a deferred division, which the *Glossary of Parliamentary Procedure* defines as:

A recorded division which is not held at the close of a debate, but at a later time pursuant to various provisions in the Standing Orders.

Rule 39(1) of the *Rules of the Senate* comes into play when we are at the debate stage of an item of government business, and we are currently dealing with a matter that is subject to a division, not a matter that has been adjourned.

Hon. Jack Austin (Leader of the Government): Honourable senators, if I correctly recall the proceedings that took place, Senator Tkachuk moved an amendment, and the next stage in the debate was, as the record will show, an attempt to adjourn the debate, which was refused on this side.

Hon. John Lynch-Staunton (Leader of the Opposition): A vote. No, no; a vote.

Senator Austin: Then Senator Tkachuk deferred the vote until tomorrow at 5:30 p.m.

Senator Lynch-Staunton: The question was called. You called the question. The vote was taken and then the vote was deferred.

Senator Austin: It is true.

Senator Lynch-Staunton: There was no adjournment.

Senator Austin: We called the question, and the act of deferral is in fact an adjournment of the debate. That is the question.

Senator Lynch-Staunton: That is the question.

The Hon. the Speaker: Honourable senators, I would like a few minutes to consider this point of order. However, before I retire for a few minutes with an adviser, does any other senator wish to intervene?

Senator Kinsella: I would add that the move the government had available to it was not to call the question but, rather, to move the adjournment of the debate. The matter would then have

been adjourned, and then rule 39 would have been applicable. It is not my fault if they do not move to do what I would have done if I had been in their position, namely, to move the adjournment of the debate. The whole point of time allocation is that the Senate has decided — and thus we have the rule — not to have things delayed through adjournments but, rather, that the debate must continue.

• (1930)

The option that was available, which was not exercised, was to move the adjournment of the debate and say, at that point in time, "This debate is not proceeding in a certain timeframe and therefore we give notice for time allocation." That was not done. We are in the middle of a vote. That vote is being deferred. The rule is sound. Management on the other side did not do what they needed to do if they wanted to be in the same place.

Senator Austin: Honourable senators, the rule does not say anything about moving an adjournment. The rule says "consideration of any adjourned debate." I have already made the argument that the act of deferral of the vote is an adjournment of the debate. There is no purpose in adjourning a debate twice.

Hon. Laurier L. LaPierre: Honourable senators, I fail to see the relevance of any of this discussion. I am sure that if this debate were televised to the Canadian people, they would ask what the hell we were doing. At the end of the day, sir, we have to bear in mind that our rules are valid, but what is more valid is how the Canadian people feel about us. With all due respect to you, sir, although they feel a lot about you, they do not feel any of these discussions are productive for the common good of any of the Canadian people.

I am sorry to have to say that but I have sat here, honourable senators, now for four and a half years. I will be here for another four or five months and I think that a lot of this stuff is a waste. At the end of the day, the Canadian people do not care about points of order. What they care about is to be able to advance and to look at the Senate so that the Senate can be an instrument of their freedom and the goodness of their way of life.

I thank you, Your Honour. I should not have said any of that and, therefore, before you ask me to apologize, I apologize.

The Hon. the Speaker: Honourable senators, I have heard enough on the two positions taken by Senator Kinsella and by those who disagree with Senator Kinsella. I must take 15 or 20 minutes to reflect on what I have heard, and to see if, in my review of the rules and authorities, there are relevant matters to consider when ruling on this point of order.

I appreciate fully that timeliness is important here. We are at a stage where there seems to be a desire to dispose of this matter quickly, at least on one side, and not so quickly on the other side. Thank you, Senator Kinsella and others, for participating in the discussion on the point of order. I will return to the Chair in as short a time as possible. I suggest 15 or 20 minutes.

The sitting was suspended.

• (2000)

The sitting was resumed.

SPEAKER'S RULING

The Hon. the Speaker: Honourable senators, thank you for your patience. I have now had an opportunity to consider the point of order. I have also had a chance to look for other authorities or rules that might be applicable, although I have been unsuccessful in that quest.

In terms of precedents in our chamber, we have done this before, and I refer honourable senators to a specific example in the *Debates of the Senate* of December 17, 2001, at page 2095. Notice was given at 2:10 p.m., which interrupted the proceedings on Bill C-36, the terrorism bill. The notice to allocate time was given after a vote had been called and deferred and before the vote was taken. For what it is worth, we have done this before, and that is the example. However, this matter perhaps deserves more comment than that.

In my mind, the issue boils down to this: Are there categories in which items of business are put on our Order Paper under Government Business that are different in terms of awaiting the next procedural step, whether it be a vote, a decision of the Senate to proceed with further debate or any other matter that relates to Government Business? There are matters on our Order Paper under Government Business that, by operation of the Senate rules, are deemed subject to an order, such as the case at hand where the vote is deferred by virtue of the operation of the rules. We have other examples where there may be unanimous agreement that an item of Government Business stays on the Order Paper because we have adjourned early. It is unusual in respect of Government Business, but it has happened. Are items on the Order Paper in different categories other than adjourned because they rest or stay on the Order Paper by operation of some action of the Senate that has a name such as a deferred vote or by some other action? In my opinion, there is no difference. An item stays on the Order Paper under Government Business, whether it is adjourned by agreement of the Senate, that is, it stands; whether it is adjourned by the operation of a vote of the Senate or dealt with in some other way by unanimous consent; or, whether, as in the case at hand, by the operation of the rules, it is an item to be dealt with on our agenda under Government Business on the next sitting day. It remains in the same place that it would have been had it not been subject to a deferred vote. The only thing that is different is that, by operation of the rules, there is a deemed order that there will be a vote at 5:30 p.m. That does not imply that it is not an adjourned item. If that were not the case, we would have to determine refined categories of items, other than those that are adjourned and remain in their normal place on the Order Paper. I do not believe that is applicable in the current instance. Accordingly, I rule that the matter is adjourned for the purposes of rule 39.

• (2010)

No other objection was made. I will not go into that in detail. The Senate was sitting at the time the appropriate person, namely, the deputy leader, put the notice. There was no objection to the

precedent, which is an important part of the operation of this rule; namely, that the parties have failed to reach an agreement for a number of days or hours of consideration before a matter is voted on and dealt with at all stages.

The rule is a rather harsh and controversial one. It always has been. I think it is in keeping with the nature of rule 39 — time allocation — that decisions such as the one I am making in this ruling must be made on a fairly hard-line basis, and that is that there is no separate distinction of “deferred,” which would remove this item from the “adjourned” category for purposes of the operation of rule 39.

I see a senator rising. Is the honourable senator rising to challenge the ruling?

Hon. Laurier L. LaPierre: I have absolutely no idea what the Speaker has said. It was beautiful and literate but, with all due respect, I have no idea what he has said. Is he saying, essentially, that this is lost and we cannot deal with it again?

The Hon. the Speaker: Our rules are clear on this, Senator LaPierre.

Senator LaPierre: With all due respect, I am a member of this Senate and I want to know what this means.

The Hon. the Speaker: By standing, as the honourable senator is now doing, he is indicating that he is either challenging the ruling or he is not.

Senator LaPierre: I am not challenging the ruling.

The Hon. the Speaker: If the Honourable Senator LaPierre is standing to challenge the ruling, I will put the question to the chamber. If he is not, then I would remind him that we do not debate a ruling once it is given.

I am sorry that my language was not such that he feels comfortable with it, but I have done the best that I could.

BUSINESS OF THE SENATE

Hon. John Lynch-Staunton (Leader of the Opposition): Honourable senators, I am not speaking to the decision of His Honour, but I would ask for leave to make several comments, because I do not think any of us wants to go down a certain road, which is where we seem to be heading now.

Hon. Senators: Agreed.

Senator Lynch-Staunton: Honourable senators, we must all be wondering why we are suddenly in the position of having a vote at 5:30 p.m. on Friday when the result is pretty well known ahead of time. How did we get there? It is a valid question.

If senators will allow, let me explain our position. Hopefully, they will sympathize with it.

Bill C-3, as such, is not an adequate response to the Supreme Court, largely because the Supreme Court's opinion is inadequate. This is not a personal opinion; it is shared by many others. However, the government had no choice but to follow its opinion and introduce proposed legislation by a certain date. It realizes, itself, that the bill is not a complete response because it contains a two-year sunset clause. The House of Commons has already formed a committee to look into a better way to implement a decision that is difficult to implement because it is not as clear-cut as it should be. That is one thought that we should all share on this bill.

The other thought is that, even if it is not passed by June 27, the sky will not fall. The election that is to be held the day after, according to the latest gossip, will still be held. All that will happen is that certain provisions of the Canada Elections Act will no longer be constitutional, and which will not be applicable until the next election; or, at least, their inapplicability will not offend anyone.

The carrying out of our responsibilities has been, since the beginning of the year — since our return in February, certainly — seriously hindered by their being constantly limited by moving deadlines. Bills had to be rushed through before Easter. Then, after Easter, more bills had to be rushed through to meet another deadline. As we have seen this week, more bills have to be passed within hours to meet a new deadline.

This interfering with the proper functioning of the legislative process is not only bad policy, it can only lead to bad legislation. Bill C-3, by the way, does not affect national parties. I am not here, nor are my colleagues, objecting to the provisions of the bill out of self-interest. However, it does affect the smaller parties, as they themselves testified and as academics have testified. As a matter of fact, my colleagues in the House of Commons supported this bill, but upon reflection — which is our role — we should improve on it. However, in its wisdom, the majority in this place decided not to do that. I want to emphasize that all we have been trying to do is to improve this bill; nothing more and nothing less.

We know the government is adamant in wanting this bill passed. We know the next deadline. I hope it will be the last deadline.

With unanimous consent, the Senate can cancel the order setting the vote for tomorrow and proceed to it this evening or at any other time, if it so wishes.

I will not stand in the way of such a decision, but should we reconvene again before the end of this month, you can be assured that this is the last time that I, for one, will agree to any derogation from our rules, no matter how trivial or even justified, because I have been manipulated enough.

Some Hon. Senators: Hear, hear!

Hon. Marcel Prud'homme: Honourable senators, I have been following closely the debate on this bill. I know some will violently disagree with what I am going to say. We cannot know if gossip has any basis, but if the gossip of an election on June 28

has any merit, we still cannot know what the result will be. I would hope that my colleagues will accept this, especially Senator Lynch-Staunton. We cannot know what the ultimate result will be.

I have five days of speaking engagements from tomorrow until next Tuesday — not for any political party. However, because of what Senator Lynch-Staunton has said tonight, perhaps I can help put some salve on our pain tonight. Not knowing what the result will be, but just by the stand that the honourable senator took tonight, if the result were to be different from what we think, then he would deserve to be the Leader of the Government in the Senate by showing that he is the man who ultimately could be highly reasonable and understand the limbo in which we find ourselves.

Hon. Jack Austin (Leader of the Government): Honourable senators, I rise to the challenge what has been put to me by the Honourable Senator Prud'homme.

I want to acknowledge the statement made by the Leader of the Opposition and I thank him for it. I understand the sentiments on which that statement is based. I agree with many of his views with respect to Bill C-3, but I depart on a key point, and that is the determination by the Supreme Court of Canada of a deadline by which it has asked Parliament to act. I believe that deadline, which is June 27, 2004, should be respected. The bill definitely needs to be reworked. The Leader of the Opposition did not propose that this chamber, when it next meets, constitute an order of reference so that we may also exercise our responsibility to improve the bill, but I am sure he would agree with the suggestion that I am now making that we take precisely that step when we do return.

• (2020)

I understand, honourable senators, that Royal Assent could be given tonight if this session could be suspended for a further hour.

Senator Lynch-Staunton: We have to vote first.

Senator Austin: Yes, I am just providing information so that senators will know, in terms of their own calculation, how we plan to use our time.

Honourable senators, with that, I would ask that we call the question.

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, with leave of the Senate, on behalf the opposition, I request that the exercise of the authority by the Chief Opposition Whip, pursuant to rule 67(1), be stood aside and that, with consent, we be seized of the question in amendment.

The Hon. the Speaker: Is it agreed, honourable senators?

Some Hon. Senators: Agreed.

Senator LaPierre: I will not sit down. I am a member of this Senate —

The Hon. the Speaker: Senator LaPierre —

Senator LaPierre: I am sorry, Your Honour, but my rights are being affected here seriously.

Senator Corbin: The Speaker is on his feet.

Senator LaPierre: I will sit down, but nobody else does but me.

The Hon. the Speaker: Honourable senators, we are in a stage of Senate business that demands we complete what has been put forward to all senators. I do not want to try to improve on it. I think Senator Kinsella has put it well, which is that by unanimous consent we go to third reading of Bill C-3 and set aside the deferred vote that was in place by operation of the *Rules of the Senate*.

Let me simply ask if there is unanimous agreement to do that.

The Hon. the Speaker: Is it agreed?

Hon. Senators: Agreed.

CANADA ELECTIONS ACT INCOME TAX ACT

BILL TO AMEND—THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Mercer, seconded by the Honourable Senator Munson, for the third reading of Bill C-3, to amend the Canada Elections Act and the Income Tax Act.

And on the motion in amendment of the Honourable Senator Tkachuk,

That Bill C-3 be not now read a third time but that it be amended:

(a) in clause 5,

(i) on page 3,

(A) by replacing lines 18 and 19, with the following:

“registered party, if it has candidates whose nomination has been confirmed in at least 12 electoral districts for a general”,

(B) by replacing line 22 with the following:

“writs for that election and has not been”,

(C) by replacing lines 27 and 28 with the following:

“general election if it satisfies the requirements of”, and

(D) by replacing lines 32 to 39, with the following:

“the close of nominations, inform the leader of an eligible party whether or not the party has been registered.”, and

(ii) on page 4, by replacing line 5 with the following:

“the writs for that election.”;

(b) in clause 16, on page 7, by replacing line 9, with the following:

“endorsed a candidate in at least 12 electoral districts.”; and

(c) in clause 23, on page 11, by replacing line 43, with the following:

“participating in public affairs by endorsing 12”.

The Hon. the Speaker: We are now at third reading stage of Bill C-3.

Is it your wish that we deal with the question now?

Some Hon. Senators: Yes.

Senator LaPierre: No.

Some Hon. Senators: Yes.

Senator LaPierre: No. No!

The Hon. the Speaker: Are we not to deal with the question?

Senator LaPierre: I am not interested until my rights are satisfied.

Senator Prud'homme: All right. If two senators rise, it is not too late.

The Hon. the Speaker: Senator LaPierre, you obviously have a great concern. I will give you a few minutes to make your point.

Senator Prud'homme: No, no, no, no.

Senator LaPierre: It would appear, sir, that you do not have unanimous consent for me to be able to explain what I am worried about.

Senator Prud'homme: Say “yea” and “nay.”

Senator LaPierre: I do not need anyone making editorial comments, sir.

The Hon. the Speaker: Are we ready to proceed?

Some Hon. Senators: Yes.

Senator LaPierre: I just said no. I have not given unanimous consent.

The Hon. the Speaker: I think that we did receive unanimous consent to revert to this stage. You have, after that, in my opinion, raised an issue on which you wish to speak. I am not sure. I invited you to speak, but you did not speak.

Senator LaPierre: I would speak, but I have been interrupted.

The Hon. the Speaker: I will give you a few minutes to make your point.

Senator LaPierre: I do not understand what this is about, and I have the right to understand. You people have been in the Senate for 1,000 years, and you will be here for another 1,000 years. I have only been here for two years, and I will not be here after November 21.

I have the fundamental right to understand. If you do not want me to understand, the hell with you.

Thank you.

Senator Prud'homme: That is okay, everyone.

The Hon. the Speaker: Senator LaPierre, what is happening is we are trying to deal with a piece of Senate business that has been contentious and outstanding for some time. We have an agreement between the opposition and the government on the manner of dealing with that business. I intend to proceed now to carry out the wishes, as I understand it, of the Senate and return to the third reading stage of Bill C-3 by unanimous content. Is it agreed?

Hon. Senators: Yes.

Hon. Bill Rompkey (Deputy Leader of the Government): If His Honour were to put the question, I believe he would find agreement on both sides to have a 15-minute bell to allow senators outside the chamber to take part in the vote.

Senator Kinsella: Agreed.

Senator Rompkey: The order would be to put the question and then to ring the bells for 15 minutes, but we have to put the question on the amendment first, as I understand it, and then on the main motion.

The Hon. the Speaker: Let me try to assist honourable senators. We must first vote to dispose of a motion in amendment, which is the item of business before us at third reading stage. If that amendment is defeated, we would be at third reading stage. If the amendment is passed, we would also be at third reading stage of the bill, as amended. It is my understanding that we have consent to proceed.

I now need a motion that we proceed to the question.

Senator Rompkey: I move that we proceed to the question, Your Honour.

The Hon. the Speaker: I will put the question. Is it agreed, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: It was moved by the Honourable Senator Tkachuk, seconded by the Honourable Senator Oliver:

That Bill C-3 be not now read a third time but that it be amended

(a) in clause 5,

(i) on page 3,

(A) by replacing lines 18 and 19 with the following:

“registered party if it has —

Senator Rompkey: Dispense!

Hon. Senators: Dispense!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion in amendment?

Some Hon. Senators: No.

Senator Lynch-Staunton: Yes.

Senator Prud'homme: On division.

The Hon. the Speaker: Those in favour of the motion in amendment please say “yea.”

Some Hon. Senators: Yea.

The Hon. the Speaker: Those opposed to the motion in amendment will please say “nay.”

Some Hon. Senators: Nay.

The Hon. the Speaker: I believe the “nays” have it. The motion in amendment is defeated, on division.

Senator Kinsella: We did want to give all honourable senators a chance to vote on this matter, so we are rising to ask that there be a vote and that the vote be held in 15 minutes.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Yes.

The Hon. the Speaker: We will nullify the vote that we have taken, and we will take the vote in 15 minutes. The division bells will ring for 15 minutes.

Call in the senators.

• (2040)

The Hon. the Speaker: Honourable senators, we are, by agreement, at a stage now where 15 minutes having passed for the division bells to ring, we will put the vote that we have agreed to do by unanimous agreement.

We are now at the point of taking the vote on the motion in amendment on Bill C-3, and I will put the question.

It was moved by the Honourable Senator Tkachuk, seconded by the Honourable Senator Oliver, that Bill C-3 be not now read a third time but that it be amended —

Hon. Senators: Dispense.

The Hon. the Speaker: Those honourable senators in favour of the motion in amendment will please say “yea”?

Some Hon. Senators: Yea.

The Hon. the Speaker: Those honourable senators opposed to the motion in amendment will please say “nay”?

Some Hon. Senators: Nay.

The Hon. the Speaker: I believe the “nays” have it. The motion in amendment is defeated.

Senator Kinsella: On division.

Hon. Marcel Prud'homme: Honourable senators, I would simply like to say that I had rushed back to my office and that had I been back here on time, I would have voted for the amendment of the Honourable Senator Lynch-Staunton.

The Hon. the Speaker: Honourable senators, we are now on the main motion. Are honourable senators ready for the question on the main motion?

Hon. Senators: Question!

The Hon. the Speaker: I will put the question on the main motion.

It was moved by the Honourable Senator Mercer, seconded by the Honourable Senator Munson, that this bill be read a third time.

All those honourable senators in favour of the motion will please say “yea”?

Some Hon. Senators: Yea.

The Hon. the Speaker: Those honourable senators opposed to the motion will please say “nay”?

Some Hon. Senators: Nay.

The Hon. the Speaker: I believe the yeas have it.

Senator Kinsella: On division.

The Hon. the Speaker: The motion on third reading is passed on division.

Motion agreed to and bill read third time and passed, on division.

BUSINESS OF THE SENATE

Hon. Noël A. Kinsella (Deputy Leader of the Opposition): Honourable senators, I thought I might rise at this interval, on the

outside chance that we will not be back here on May 25, and on behalf of the opposition, express our great appreciation to our pages who have served us so faithfully, diligently and assiduously during the session. We do appreciate their work and the service they provide because it helps to cement the Senate and make the work of the senators that much more efficacious.

Also, we appreciate the work of our table officers, and we appreciate the work of our faithful reporters and all those who work to make the record of these proceedings clear, for sometimes are not at the moment of presentation. I express our appreciation to all those who serve diligently, including our security staff, our cleaners and all those who participate in making the Senate of Canada function that senators may carry out the duties they take so seriously in fulfilling their responsibilities. For all of this, I wish to place on the record our appreciation.

Hon. Senators: Hear, hear!

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, I want to echo the remarks of the Honourable Senator Kinsella in thanking on our behalf the pages, the table officers, the translators, the reporters and the Black Rod's office, for the work that they have done and the way they have conducted themselves in helping us to carry out our duties here in the chamber.

I also want to thank the opposition for their role, because a democracy does not work without an effective opposition. It has been our experience that the opposition has come well prepared, knowledgeable about the subject — too knowledgeable in some cases — and has presented its arguments well, forcefully, deliberately, and in a very strong way. We all should acknowledge that democracy does not work unless that happens.

Honourable senators, we need an opposition. I know how stressed they have been in terms of their numbers and how difficult it has been from time to time to man the various committees and to man them effectively. Yet they have done that and it has worked. We need to put that on the record and acknowledge it.

I also want to acknowledge my own colleagues, to thank them for their support and for the job that they have done. They are here tonight, although the hour is late. None of us is as young as we once were. I just had a birthday today, so I am aware of my own limitations. I am experiencing those this evening.

• (2050)

That brings me to one of our senior members who, shortly, will no longer be with us. He, perhaps, is casting his last vote. I want to acknowledge the experience that he has shared with us and the excellence and the devotion that he has demonstrated as a senator in this chamber. He always gives an eloquent and unique performance. I have listened to the speeches of Al Graham with great admiration and envy. I wish that I could write and speak the way he does.

Hon. Senators: Hear, hear!

Senator Rompkey: Finally, Your Honour, I wish to commend the way that you have conducted yourself.

I threatened last night to put a motion on the floor of the Senate today. There was a consensus in the room that a motion asking the Speaker to have more dinners in the Convention Centre would have passed easily.

Your Honour, I said last night that you have performed with grace. You have been attentive, careful and cautious. You have acted with discipline and restraint. At times this place can become quite contentious, and the attitude of the Speaker contributes so much to the attitude of the chamber.

Thank you, Your honour.

Hon. Senators: Hear, hear!

[Translation]

Hon. Marcel Prud'homme: Honourable senators, my very dear and esteemed colleague, Senator Plamondon, is permitting me to say a few words in her name.

We would like to add our voices to those of Senators Kinsella and Rompkey in offering our most sincere thanks to everyone. We share their deep appreciation for the Senate staff.

We sincerely thank you for everything, and especially we wish good luck to these young people, the pages.

[English]

Other senators and I often tell the pages to look to the future because tomorrow they might be surprised. I know they hear that often.

Senator Rompkey slipped a little bit. I remember the words of homage that Mr. Trudeau received when he resigned, not knowing that he would be back. We may have to live by what Senator Rompkey just said about the role of the opposition, because with elections one never knows what the results will be. Who knows? The opposition may be different. I hope we will not remind people of what Senator Rompkey said so gently.

In closing, honourable senators, Senator Plamondon and I would like to convey our warm thoughts to a very gracious and patient woman, Your Honour's wife, Kathy. We extend our sincere thanks for her kindness, beautiful smile and patience with all of us.

Thank you, Your Honour.

Hon. Senators: Hear, hear!

The Hon. the Speaker: I thank you and I join with honourable senators in the thanks that has been extended to others.

I will now ask if there is agreement to suspend the sitting of the Senate to 9:30 p.m., at which time I expect that we will have letters from the Governor General to read with respect to Royal Assent on Bill C-3. Is it agreed, honourable senators?

Hon. Senators: Agreed.

The sitting was suspended.

[Translation]

• (2130)

The sitting of the Senate was resumed.

ROYAL ASSENT

The Hon. the Speaker informed the Senate that the following communication had been received:

RIDEAU HALL

May 13, 2004

Mr. Speaker,

I have the honour to inform you that the Right Honourable Adrienne Clarkson, Governor General of Canada, signified royal assent by written declaration to the bill listed in the Schedule to this letter on the 13th day of May, 2004, at 9:10 p.m.

Yours sincerely,

Barbara Uteck
Secretary to the Governor General

The Honourable
The Speaker of the Senate
Ottawa

Bill Assented to Thursday, May 13, 2004:

An Act to amend the Canada Elections Act and the Income Tax Act (*Bill C-3*)

ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

Hon. Bill Rompkey (Deputy Leader of the Government): Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That, when the Senate adjourns today, it do stand adjourned until Tuesday, May 25, 2004, at 2 p.m.

The Hon. the Speaker: Honourable senators, is leave granted?

Hon. Senators: Agreed.

Motion agreed to.

The Senate adjourned to Tuesday, May 25, 2004, at 2 p.m.

THE SENATE OF CANADA
PROGRESS OF LEGISLATION
(3rd Session, 37th Parliament)
Thursday, May 13, 2004

GOVERNMENT BILLS
(SENATE)

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
GOVERNMENT BILLS (HOUSE OF COMMONS)									
No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
C-3	An Act to amend the Canada Elections Act and the Income Tax Act	04/04/01	04/04/22	Legal and Constitutional Affairs	04/05/06	0	04/05/13		
C-4	An Act to amend the Parliament of Canada Act (Ethics Commissioner and Senate Ethics Officer) and other Acts in consequence	04/02/11	04/02/26	Rules, Procedures and the Rights of Parliament	04/03/23	0	04/03/30	04/03/31	7/04
C-5	An Act respecting the effective date of the representation order of 2003	04/02/11	04/02/20	Legal and Constitutional Affairs	04/02/26	0	04/03/10	04/03/11	1/04
C-6	An Act respecting assisted human reproduction and related research	04/02/11	04/02/13	Social Affairs, Science and Technology	04/03/09	0	04/03/11	04/03/29	2/04
C-7	An Act to amend certain Acts of Canada, and to enact measures for implementing the Biological and Toxin Weapons Convention, in order to enhance public safety	04/02/11	04/03/11	Transport and Communications	04/04/01	0	04/05/04	04/05/06	15/04
C-8	An Act to establish the Library and Archives of Canada, to amend the Copyright Act and to amend certain Acts in consequence	04/02/11	04/02/18	Social Affairs, Science and Technology	04/03/11	3	04/03/29	04/04/22	11/04
C-9	An Act to amend the Patent Act and the Food and Drugs Act (The Jean Chrétien Pledge to Africa)	04/05/04	04/05/11	Foreign Affairs	04/05/13	0	04/05/13		
C-11	An Act to give effect to the Westbank First Nation Self-Government Agreement	04/04/27	04/04/29	Aboriginal Peoples	04/05/04	0	04/05/05	04/05/06	17/04
C-12	An Act to amend the Criminal Code (protection of children and other vulnerable persons) and the Canada Evidence Act	04/05/13							
C-13	An Act to amend the Criminal Code (capital markets fraud and evidence-gathering)	04/02/12	04/02/24	Banking, Trade and Commerce	04/03/11	0	04/03/22	04/03/29	3/04
C-14	An Act to amend the Criminal Code and other Acts	04/02/12	04/02/25	Legal and Constitutional Affairs	04/04/01	0	04/04/21	04/04/22	12/04

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
C-15	An Act to implement treaties and administrative arrangements on the international transfer of persons found guilty of criminal offences	04/04/27	04/05/05	Legal and Constitutional Affairs	04/05/13	0	04/05/13		
C-16	An Act respecting the registration of information relating to sex offenders, to amend the Criminal Code and to make consequential amendments to other Acts	04/02/12	04/02/19	Legal and Constitutional Affairs	04/03/25	0	04/04/01	04/04/01	10/04
C-17	An Act to amend certain Acts	04/02/12	04/03/09	Legal and Constitutional Affairs	04/04/29	0	04/05/04	04/05/06	16/04
C-18	An Act respecting equalization and authorizing the Minister of Finance to make certain payments related to health	04/03/10	04/03/22	National Finance	04/03/23	0	04/03/25	04/03/29	4/04
C-20	An Act to change the names of certain electoral districts	04/02/23	04/03/09	Legal and Constitutional Affairs	04/05/06	0	04/05/12		
C-21	An Act to amend the Customs Tariff	04/03/24	04/04/01	Banking, Trade and Commerce	04/04/22	0	04/04/28	04/04/29	13/04
C-22	An Act to amend the Criminal Code (cruelty to animals)	04/03/09	04/04/20	Legal and Constitutional Affairs					
C-24	An Act to amend the Parliament of Canada Act	04/03/22	04/03/29	Social Affairs, Science and Technology	04/04/29	0	04/05/11		
C-26	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2004	04/03/22	04/03/25	—	—	—	04/03/26	04/03/31	5/04
C-27	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2005	04/03/22	04/03/25	National Finance	04/03/30	0	04/03/30	04/03/31	8/04
C-28	An Act to amend the Canada National Parks Act	04/05/04	04/05/10	Energy, the Environment and Natural Resources	04/05/12	0	04/05/13		
C-30	An Act to implement certain provisions of the budget tabled in Parliament on March 23, 2004	04/05/06	04/05/11	National Finance	04/05/13	0	04/05/13		

COMMONS PUBLIC BILLS

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
C-212	An Act respecting user fees	04/02/03	04/02/11	National Finance	04/02/26	10	04/03/11	04/03/31	6/04
C-249	An Act to amend the Competition Act	04/02/03	04/04/01	Banking, Trade and Commerce					
C-250	An Act to amend the Criminal Code (hate propaganda)	04/02/03	04/02/20	Legal and Constitutional Affairs	04/03/25	0	04/04/28	04/04/29	14/04
C-260	An Act to amend the Hazardous Products Act (fire-safe cigarettes)	04/02/03	04/02/23	Energy, the Environment and Natural Resources	04/03/10	0	04/03/30	04/03/31	9/04
C-300	An Act to change the names of certain electoral districts	04/02/03							

SENATE PUBLIC BILLS

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
S-2	An Act to prevent unsolicited messages on the Internet (Sen. Oliver)	04/02/03	04/03/23	Transport and Communications					
S-3	An Act to amend the Constitution Act, 1867 and the Parliament of Canada Act (Speakership of the Senate) (Sen. Oliver)	04/02/03		subject-matter 04/03/11 Legal and Constitutional Affairs					
S-4	An Act to amend the Official Languages Act (promotion of English and French) (Sen. Gauthier)	04/02/03	04/02/26	Official Languages	04/03/09	0	04/03/11		
S-5	An Act to protect heritage lighthouses (Sen. Forrester)	04/02/03	04/02/05	-	-	-	04/02/05		
S-6	An Act to amend the Criminal Code (lottery schemes) (Sen. Lapointe)	04/02/04	04/02/11	Legal and Constitutional Affairs					
S-7	An Act respecting the effective date of the representation order of 2003 (Sen. Kinsella)	04/02/04	Bill withdrawn pursuant to Speaker's Ruling 04/03/23						
S-8	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	04/02/05	04/02/12	Energy, the Environment and Natural Resources	04/03/10	0	04/03/11		
S-9	An Act to honour Louis Riel and the Metis People (Sen. Chalifoux)	04/02/05							
S-10	An Act to amend the Marriage (Prohibited Degrees) Act and the Interpretation Act in order to affirm the meaning of marriage (Sen. Cools)	04/02/10							
S-11	An Act to repeal legislation that has not been brought into force within ten years of receiving royal assent (Sen. Banks)	04/02/11	04/03/09	Legal and Constitutional Affairs					
S-12	An Act to amend the Royal Canadian Mounted Police Act (modernization of employment and labour relations) (Sen. Nolin)	04/02/12	04/04/28	National Finance					
S-13	An Act to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions (Sen. Stratton)	04/02/19							
S-14	An Act to amend the Agreement on Internal Trade Implementation Act (Sen. Kelleher, P.C.)	04/03/10		subject-matter 04/03/22 Banking, Trade and Commerce					
S-16	An Act to amend the Copyright Act (Sen. Day)	04/03/11	04/03/23	Social Affairs, Science and Technology					
S-17	An Act to amend the Citizenship Act (Sen. Kinsella)	04/03/25	04/04/01	Social Affairs, Science and Technology	04/05/06	0	04/05/06		

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
S-18	An Act to amend the Canada Transportation Act (running rights for carriage of grain) (Sen. Banks)	04/05/13							

PRIVATE BILLS

No.	Title	1 st	2 nd	Committee	Report	Amend	3 rd	R.A.	Chap.
S-15	An Act to amend the Act of incorporation of Queen's Theological College (Sen. Murray, P.C.)	04/03/10	04/03/11	Legal and Constitutional Affairs	04/03/25	0	04/03/25	04/04/01	

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